

June 9, 2009



TRANSCRIPT

June 9, 2009

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Nancy Floreen

Councilmember George Leventhal

Councilmember Nancy Navarro

June 9, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody, and welcome to a session of the County Council. We have two
3 Councilmembers that are on Council business at the moment -- that's Councilmember
4 Ervin and Councilmember Knapp -- and Councilmember Trachtenberg will be out today
5 due to a family illness. We're going to begin the morning with a moment of silence, so
6 please stand and join me in a moment of silence. [PAUSE] Thank you. We have one
7 presentation this morning which we are going to defer a little while because I don't believe
8 the people are here yet to receive it, so we'll go on to general business and
9 announcement of agenda and calendar changes.

10
11 LINDA LAUER:

12 The only thing to announce for changes today is the official photo will be deferred until
13 next week. We did receive some petitions -- one was supporting funds for the Housing
14 Initiative Fund, another opposing budget cuts for the minority health initiatives. We had
15 supporting restoration of \$10,000 for the Adult ESOL Program, supporting Senior Free
16 Ride On and Metrobus Program, supporting Suburban Hospital's campus enhancements
17 project, a petition supporting the senior -- another one on the Senior Free Ride On
18 Metrobus Program, and one supporting funding for programs that serve the most
19 vulnerable residents of the county, a petition supporting the proposed rerouting of Ride-on
20 Bus 18, one opposing Historic Preservation Amendment 09-1, a petition opposing the Bill
21 25-08 - Emergency Medical Services Transport Fee, and a petition supporting full funding
22 of the libraries budget.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Thank you. Well, the right to petition is alive and well in the county. And before we go any
26 further, I want to announce and welcome our new Councilmember to her first official
27 County Council meeting -- Councilmember Nancy Navarro, representing District 4.
28 Welcome, again.

29
30 COUNCILMEMBER FLOREEN:

31 Yay!

32
33 COUNCIL PRESIDENT ANDREWS:

34 And we very much look forward to working with you for the remainder of this term and
35 know that you will bring a lot to this body in terms of your experience on the Board of
36 Education and your knowledge of the community. And so, again, congratulations, and
37 welcome on your first official County Council meeting. Next will be action on approval of
38 minutes of May 4 and 5 of 2009 and approval of closed session minutes of April 28, 2009.
39 Is there a motion to approve the minutes?

40
41 COUNCIL VICE PRESIDENT BERLINER:



June 9, 2009

1 So moved.

2
3 COUNCILMEMBER LEVENTHAL:
4 Second.

5
6 COUNCIL PRESIDENT ANDREWS:
7 Moved by Council Vice President Berliner. Seconded by Councilmember Leventhal.
8 All those in favor of approving the minutes of those meetings, please raise your hand.
9 That is approved 5-0 -- Councilmember Navarro, Councilmember Floreen, myself, Council
10 Vice President Berliner, and Councilmember Leventhal. We're now going to go on to the
11 Consent Calendar, and I'll ask if there's a motion for approval.

12
13 COUNCILMEMBER LEVENTHAL:
14 I'd like to approve the Consent Calendar.

15
16 COUNCIL VICE PRESIDENT BERLINER:
17 I'll second it.

18
19 COUNCIL PRESIDENT ANDREWS:
20 All right. That's moved by Councilmember Leventhal and seconded by Council Vice
21 President Berliner. Is there any discussion on any of the Consent Calendar items? I don't
22 see any. It's very straightforward -- all matters for introduction this morning -- so I'll ask for
23 a vote, then, on the Consent Calendar. All those in favor, please raise your hand. That is
24 Councilmember Navarro, Councilmember Floreen, myself, Council Vice President
25 Berliner, and Councilmember Leventhal. The Consent Calendar is approved, 5-0. All right.
26 We'll now move on. We're a little ahead of schedule, but I think -- I don't see any problem
27 in going ahead to the Legislative Session, which is the introduction of bills. We have one
28 bill for introduction, Bill 20-- Bill 26-09 sponsored, Domestic Violence Coordinating Council
29 - Membership, sponsored by myself. This is a very simple measure that would add a
30 representative from the Montgomery County public school system -- specifically, it would
31 add either the Board of Education president or his or her designee -- to the Council. The
32 Council feels -- the Domestic Violence Coordinating Council feels that it would be to the
33 benefit of the public and to its work to have a representative from the school system on
34 the Council, and so that's what this bill would do. Public hearing and action is scheduled
35 for June 30 at 1:30. Seeing no objection to the introduction of the bill, the bill is introduced.
36 And I think that since we have a District Council session for 11:05, but we don't have all
37 the people here necessarily for it, or do we? Jeff Zyontz, are we -- are we in good shape
38 for this? Is there any reason why we should wait?

39
40 JEFF ZYONTZ:
41 You don't have the applicant here. The applicant is not present at this time.

June 9, 2009



1
2 COUNCIL PRESIDENT ANDREWS:
3 OK.

4
5 JEFF ZYONTZ:

6 But given the status of this one, I'm not sure that it's required. The applicant is not able to
7 speak to the Council, in any event.

8
9 COUNCIL PRESIDENT ANDREWS:

10 OK. All right. All right, well, I think we can go forward, then, given that, I think, this is a
11 fairly straightforward issue. And I will -- this is -- we'll then move into District Council
12 session, which is action on Schematic Development Plan Amendment 09-2. The applicant
13 is Magruder Reed at Woodward Hall. The property is 3.28 acres located in the
14 northwestern quadrant of the intersection of Washington Grove Lane and Mid-County
15 Highway -- that's 17720 Washington Grove Lane -- and the action is to amend the
16 development plan for Local Map Amendment G-840. The planning staff is recommending
17 approval, Planning Board has recommended approval, and the Hearing Examiner has no
18 recommendation. And I will turn it over to the Hearing Examiner and to Mr. Zyontz for any
19 comments they have about this matter.

20
21 MARTY GROSSMAN:

22 Good morning, Mr. President. The only issue here -- this is one of those kinds of cases
23 where the Hearing Examiner does not hold a hearing, and we essentially are a conduit to
24 pass along the recommendation of the Planning Board, so I don't have any
25 recommendation regarding the substance. I do have a procedural suggestion, and that is
26 the Schematic Development Plan Amendment, which was proposed here, does not bear
27 the change that the applicant sought to make in its plan -- that is, it does not indicate the
28 substance of what it plans to do. They wanted to include that language, which is the
29 italicized language on circle 6. They wanted to include that just in the Council's resolution
30 rather than embossing it on the Schematic Development Plan Amendment as a
31 nonbinding site note. I think that it's a better practice to have it on the SDPA as well as a
32 nonbinding site note, and that was my suggestion. The applicant opposed and had
33 suggested in a letter that certain additional notice requirements might have to be met, as
34 well as resubmitting it to the Planning Board, so I suggested an alternative which would
35 include that, and then the applicant wrote a letter saying they didn't really mean to imply
36 that and that they felt that if it was going to be included -- if that was going to be included
37 on the SDPA as a nonbinding site note, that it did not have to go back to the Planning
38 Board nor was additional notice necessary. Mr. Zyontz agreed with that. I don't disagree
39 with that, and I have prepared an alternative, "C," which accomplishes that, as well, if the
40 Council wishes to do that.

June 9, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 OK. All right. That's sounds reasonable to me. And, Mr. Zyontz, do you have a comment?

4 JEFF ZYONTZ:

5 Just a comment because this is a procedural matter. Generally, the practice is that I don't
6 speak at all during any type of zoning on the substance of what's going forward, but
7 because this is strictly procedural, you know, this seems like you can take the course of
8 actions that the Planning Board outlined on just accepting this notice in the resolution.

9 This is going to go to site plan, the restrictions will actually be imposed on that site plan,
10 and that will provide future notice to people of this action, as well as the resolution. So as I
11 did not have any objections to how the Planning Board proposed to handle this, which is
12 by -- just by resolution, which is alternative "A" of the ?????.

14 COUNCIL PRESIDENT ANDREWS:

15 I see. OK. And I hear Mr. Grossman saying he's more comfortable with alternative "C."

17 JEFF ZYONTZ:

18 Correct.

20 MARTY GROSSMAN:

21 "B" or "C," but "C" seems to satisfy the concerns of the applicant, as well. I just think that
22 their plans ought to reflect -- their plans, formal plans, ought to be reflected in their plan.
23 That is, they should have a plan that says what they're intending, even though it's a
24 nonbinding site note.

26 COUNCIL PRESIDENT ANDREWS:

27 All right. That makes sense to me still, so I'm going to move that we go with alternative
28 "C," which has been outlined by Mr. Grossman, which I think you will hand out, and we'll
29 see the exact language.

31 MARTY GROSSMAN:

32 What it does is, it changes the last page of alternative "B" and indicates approval
33 language and does not go back to the Planning Board nor require additional notice. What
34 it requires is that the applicant will submit the Schematic Development Plan Amendment
35 Exhibit 9, revised with the addition of the commitment language italicized in paragraph
36 number 10 of this opinion, as a nonbinding site note, and that it be submitted in that
37 fashion for certification by the Hearing Examiner.

39 COUNCIL PRESIDENT ANDREWS:

40 OK. All right. I will go ahead and move that. Is there a second?

June 9, 2009



1 COUNCIL VICE PRESIDENT BERLINER:

2 Second.

4 COUNCIL PRESIDENT ANDREWS:

5 OK. It's moved, and seconded by Council Vice President Berliner. Councilmember
6 Leventhal.

8 COUNCILMEMBER LEVENTHAL:

9 This seems like a reasonable resolution of the issue, but I just wonder, in the subject -- the
10 subject of what's been handed to us still says "remand."

12 MARTY GROSSMAN:

13 Oh. What page are you looking at?

15 COUNCILMEMBER LEVENTHAL:

16 Document alternative "C," that was just handed to us. The subject of the resolution still
17 says "remand."

19 MARTY GROSSMAN:

20 That's my error. I did not -- when I created alternative "C," I forgot to change that.

22 COUNCIL PRESIDENT ANDREWS:

23 OK. Yes.

25 COUNCILMEMBER LEVENTHAL:

26 So what would be a more appropriate subject, Mr. Grossman?

28 MARTY GROSSMAN:

29 I think "approval of" Schematic...

31 COUNCILMEMBER LEVENTHAL:

32 So I --

34 COUNCIL PRESIDENT ANDREWS:

35 Very good.

37 COUNCILMEMBER LEVENTHAL:

38 Mr. President, I assume you'll accept that amendment.

40 COUNCIL PRESIDENT ANDREWS:

41 Absolutely.

June 9, 2009



1
2 COUNCILMEMBER LEVENTHAL:
3 OK.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Yes. Your friendly amendment is accepted. OK, so is amended in that fashion. Any
7 questions or comments from my colleagues? All right. I think we're ready to vote on this.
8 And I don't think this is roll call, right? This is a straight vote. OK. All right, then. All
9 those in favor of the alternative "C" as amended, please raise your hand. And that is
10 Councilmember Navarro, Councilmember Elrich, Councilmember Floreen, myself, Council
11 Vice President Berliner, and Councilmember Leventhal. It's approved, 6-0. Thank you.

12
13 MARTY GROSSMAN:

14 Thank you. And good catch, Mr. Leventhal. Thank you.

15
16 COUNCIL PRESIDENT ANDREWS:

17 Yes. Good catch. OK. That actually will conclude our business for this morning. We're
18 going to defer the presentation on jobs and homes now for a week or two, and then the
19 Council will be back at 1:30 for a number of public hearings, including several action
20 items, so we will look forward to seeing everybody back at 1:30. Thank you all. And we
21 have a public hearing tonight as well, at 7:30.

June 9, 2009



June 9, 2009



1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon, everybody, and welcome to a meeting of the County Council. We have a
3 number of public hearings this afternoon and also a few this evening and a good number
4 of speakers this afternoon -- about 15 or so for the different items -- so we're going to get
5 started. Thank you for your patience. And I want to welcome our new County
6 Councilmember, Councilmember Nancy Navarro, who is -- this will be your first public
7 hearing. This morning was your first vote on the County Council. This will be your first
8 public hearing. So welcome, again. We look forward to working with you, and we're very
9 glad that District 4 has a Councilmember again. Ladies and gentlemen, the first public
10 hearing is on the Amendment to Chapter 33A, Planning Procedures - Master Plan
11 Process - public hearing time period that would amend the time period within which the
12 Council may schedule a public hearing on a Master Plan or a Master Plan Amendment.
13 Persons wishing to submit additional material for the Council's consideration should do so
14 before close of business on Thursday June 11, 2009. The Planning, Housing, and
15 Economic Development Committee worksession is tentatively scheduled for Monday,
16 June 15, 2009, at 2 PM. We have two people signed up for this public hearing -- Diane
17 Jones, representing the County Executive, and Kathy Reilly, representing the Montgomery
18 County Planning Board. So please join us, and be sure to press the button and introduce
19 yourself for the record, please.
20

21 DIANE SCHWARTZ JONES:

22 Good afternoon. Thank you. I am Diane Schwartz Jones, and I'm here to testify on behalf
23 of the County Executive in support of proposed Amendment to Chapter 33A, and I'd like to
24 say a special welcome to Miss Navarro. Welcome, and I'm glad this will be your first
25 hearing. The County Executive supports Councilmember Leventhal's proposal to amend
26 Chapter 33A to modify the time period within which the Council must establish a public
27 hearing on a Master Plan or a Master Plan Amendment. This proposal will allow the
28 advertisement of hearing to run while the Executive branch is concluding its review of a
29 proposed plan or amendment. Article 28, Section 7-108 of the Maryland Code requires
30 that the County Executive provide the District Council with a fiscal impact analysis for a
31 proposed Master Plan or amendment, along with any comments, within 60 days of the
32 Planning Board's transmission of the plan or amendment. The Executive branch has
33 historically worked with the Council to shorten the timeframe for its review to facilitate the
34 Council's need to fit its hearing into specific windows of time. However, with the
35 overlapping reviews of the White Flint Master Plan, Gaithersburg West Master Plan,
36 Kensington Master Plan, growth policy, and other complex planning matters looming on
37 the horizon, and despite our sincere desire to accommodate such requests, we may not
38 be able to provide expedited reviews for all of the upcoming plans and work without
39 jeopardizing substantive review or deferring other work obligations. The proposal to
40 amend Chapter 33A is a simple solution to enable the Council to move forward with
41 advertisement for its hearing while the Executive branch is conducting its work. Both the



June 9, 2009

1 fiscal impact and departmental comments are important information for the Council as it
2 deliberates a plan. The amendment will allow the Council greater flexibility to schedule
3 around certain windows, such as budget sessions, recesses, and other administrative
4 events affecting the Council. Allowing for the concurrent advertisement of the Council's
5 hearing on a proposed plan so that the hearing can proceed after the County Executive
6 transmits the fiscal impact and the department comments is efficient to the timely
7 processing of plans without harming the process. One thing that we suggest, though, is
8 that hearings be scheduled to occur after the fiscal impact analysis and department
9 comments are due to the Council so that the public has the opportunity to factor that
10 information in any comments they may wish to make. Again, we support this amendment.
11 We commend Councilmember Leventhal and the Council for devising this solution, and
12 we thank you, Council President Andrews and Councilmembers, for the opportunity to
13 provide our comments. Thank you.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Thank you, Miss Schwartz Jones. And our next speaker will be Kathy Reilly, from the
17 Montgomery County Planning Board.

18
19 KATHY REILLY:

20 Thank you, and good afternoon. For the record, I'm Kathy Reilly with the Park and
21 Planning Commission. The Council has in their packet today a recommendation from the
22 Planning Board, as well as a technical staff report for Resolution 16-930. At their May 28,
23 2009 hearing, the Planning Board voted to recommend approval of its resolution and to
24 forward their comments and transmission to the Council as such, and this concludes my
25 presentation.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Wow. That was brief. Thank you. To the point. All right. I don't see any questions or
29 comments on this, so the public hearing is closed, and thank you very much. We are
30 going to go to Item 12 next. We have a two of our finest police officers with us today, and I
31 want to recognize that they are here and also to ensure that we -- make sure that we give
32 adequate time to this issue. So Item 12 is a public hearing on a supplemental
33 appropriation to the county government's FY09 operating budget for the Department of
34 Police, Motor Pool Fund Contribution Non-Department Account, in the amount of \$2.9
35 million for the expansion of the Speed Camera Program. Persons wishing to submit
36 additional material for the Council's consideration should do so before the close of
37 business Monday, June 22, 2009. A Public Safety Committee worksession is tentatively
38 scheduled for Thursday, June 25, 2009, at 9:30 AM, and we have five people signed up
39 for this. We have Mr. Ed Piesen, representing the Office of Management and Budget,
40 Captain John Damskey, representing the Montgomery County Police Department, Neal
41 Jacobs, speaking as an individual, Reardon Sullivan, speaking as an individual, and Alyce



June 9, 2009

1 Ortuzar, who is signed up and also will speak to agenda Item 16. So if those individuals
2 would please join us here at the front, up at the table, and each speaker has up to three
3 minutes to make their comments. After 30 seconds, you'll see a flashing yellow light. and
4 at three minutes, you'll see a red light go on, at which point, please finish up whatever
5 sentence you might be on. And please then stay at the table in case there are questions
6 from any of the Councilmembers about your testimony. So thank you all for being here,
7 and we'll begin with Mr. Piesen.

8
9 ED PIESEN:

10 I have no comments. I have no comments to present.

11
12 COUNCIL PRESIDENT ANDREWS:

13 All right. Well, you're here if we have any questions. We'll then go to Mr. Damskey --
14 Captain Damskey -- from the Montgomery County Police Department.

15
16 JOHN DAMSKEY:

17 Good afternoon. I appreciate being asked to come down and speak to everyone. I am
18 Captain John Damskey, for the record. I'm the director of the traffic division for the
19 Montgomery County police. Part of those duties are the management and administration
20 of the Safe Speed Program and the Red Light Program, which are automated traffic
21 enforcement. I come before you today just to give you a few facts of why we think this is a
22 beneficial program to our county, to our residents, but it is also a successful program, and
23 just a few statistics and a few comments, if you would. Following the enabling legislation,
24 the Montgomery County police moved to put on the field an automated speed program,
25 and in 2007, in May, after a warning period, we actually put out speed vans that capture
26 excessive speed on our roadways and issue a \$40 citation for those cases. This \$40
27 citation does not put any points on the driver's license of our drivers, and it is not reported
28 to the insurance company. Of that \$40 -- and probably one of the reasons we're here
29 today -- is that \$16.25 is paid to our vendor, and the vendor right now is responsible for
30 completing a battery of services to include the cameras -- they actually own the cameras -
31 - the camera maintenance and repair, site management, IT services. They do name and
32 address acquisition. There is an initial review and a data entry of images once those
33 incidents are captured. They support our payment processing, they support our customer
34 service, they complete printing and mailing services, site construction, and a myriad of
35 other back-office processing tasks. Now, the Montgomery County police are responsible
36 for managing this program. We operate the programs. We ensure that they are calibrated
37 and certified. We are actually sitting in the vans on a daily basis. And right now, we have
38 60 fixed cameras in -- in the ground right now throughout the county. Out of that 60, some
39 people say, well, you know -- some of the comments I get are, "Oh, wow, that's a lot of
40 roads." Well, it really comes down to 37 roadways, because if you look -- for instance, if
41 you look at Randolph Road right around Wheaton High School, we tried to create a safety



June 9, 2009

1 zone, and what that is, is you have enforcement east and westbound. It's two cameras.
2 It's one roadway, one actual site. Now, in December of 2008, we were asked to provide to
3 some statistics to show the benefits of this program, and very quickly, what we found was
4 that there was a 22% reduction in speeds on those roadways where we enforced, 25% in
5 crashes that occurred on those roadways, and the roadways within a half-mile -- I'm sorry,
6 quarter-mile of those cameras, there was a 15% reduction in crashes. Now, we are
7 starting a study this month, which should be completed by the end of the month, to look at
8 the 50 cameras to 60 cameras. Again, you need to have an older camera, a camera that's
9 been in the ground, so that you have a data set that you can compare. And the last thing I
10 really want to pass on to you -- and I know I'm out of time here, but the last thing I want to
11 pass on to you is that our fatalities in Montgomery County are down about 50% this year --
12 fatal collisions, 50% -- and our volumes, our vehicle volume, has not declined.
13 Somewhere in there, somewhere in there, Safe Speed is having an effect on this. And you
14 can point to Fairfax, you can point to Howard County, you can point to other neighbors of
15 ours, and they have increases. They are not seeing the reductions. I'm not foolish to think
16 this is all Safe Speed, but we're playing a part here. This is important. This is vital. This is
17 a good thing for our community. It's a good thing for our residents. Thank you.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Thank you, Captain Damskey. Our next speaker is Neal Jacobs, if he is here. I don't see
21 him. Oh, he is coming up. Very good.

22
23 NEAL JACOBS:

24 Just in time.

25
26 COUNCIL PRESIDENT ANDREWS:

27 Just in time, yes. Have a seat. There you go. And you have three minutes, up to three
28 minutes. A yellow flashing light goes on with 30 seconds to go. Just press the button.

29
30 NEAL JACOBS:

31 Just give me a second. I've been running around this area trying to find this building.

32
33 COUNCIL PRESIDENT ANDREWS:

34 I see. All right. All right. Well, actually, we --

35
36 NEAL JACOBS:

37 My name is Neal Jacobs. I live... [PAUSE]

38
39 COUNCIL PRESIDENT ANDREWS:

40 You got it.



June 9, 2009

1 NEAL JACOBS:

2 My name is Neal Jacobs. I live at 1140 Halesworth Drive in Rockville. I speak to you as a
3 supporter of these traffic cameras. However, I believe that the citizens deserve more
4 protection against the unfairness of the present system as administered by the Police
5 Department. I'll explain this to you. The Council should mandate rules and requirements
6 related to the priority placement of the cameras -- such as schools, such as areas where
7 they have had a survey that shows that this is a traffic problem, that there are many
8 violations going on, where people have been hurt, so there is a priority of where the
9 camera belongs. Now, number two, provide easy access to the data related to the
10 violation. The Public Information Act is the vehicle by which I have the opportunity to see
11 the information that the Police Department has. Think about the time schedule. 30 days
12 for a response from the police on the Public Information Act. 30 days the public has the
13 opportunity to file the request. So if you -- if you don't know about a Public Information Act
14 and you're just getting this and you don't know what to do, if you don't ask quickly that you
15 need to see this data to make sure it's correct, you've lost your due process, your rights to
16 be able to do something about it, and that's unfair. For instance, I can show you -- I filed
17 my Public Information request within three days of receiving it, and here we are at June
18 the 9th, I believe, and I haven't received anything because I filed it on May the 15th. So, I
19 theoretically could miss my court date, if I were going to be contesting the ticket. Now,
20 here is one of the most important parts of what I'm here for. There is an inconsistency on
21 the part of the Police Department -- and I am assuming with your compliance -- that the
22 streets are not laid off with markings so that a citizen can see a photometric design of
23 what happened. In other words -- and I've seen sites in England in which this is done.
24 They mark off stripes on the street so when you get the violation in a photograph, you
25 have the three issues that make it correct -- time, distance, gives you speed. The speed is
26 important because the way we're doing it in the county is, it's helter-skelter. I can show
27 you some sites in which there are many stripes which a person can see their picture and
28 determine what the actual speed was using time and distance, and other sites, like on
29 **Seven Locks**, which the road is unable to determine anything. That's unfair. That's not
30 what you'd expect. You would expect to see a photograph in which the timeframe is
31 stated, and then after the timeframe is stated, you see the distance based on the number
32 of stripes that your car has -- that way you know the radar is right. I mean, it's not --

33
34 COUNCIL PRESIDENT ANDREWS:

35 Mr. Jacobs, I have to stop you there because your three minutes are up.

36
37 NEAL JACOBS:

38 Can I show you one --

39
40 COUNCIL PRESIDENT ANDREWS:

June 9, 2009



1 I can -- well, actually, what we can do is, we can read your testimony, if you have it. Then
2 we'll submit it.

3
4 NEAL JACOBS:

5 I didn't have the time -- I just found out -- I heard on the radio that you were going to have
6 a discussion about this today. I didn't even have a chance to even --

7
8 COUNCIL PRESIDENT ANDREWS:

9 Well, we have -- our public hearings are on the Website, and they're -- I'm sorry. I have to
10 cut you off at this point because we have a lot of other speakers this afternoon. We will
11 read --

12
13 NEAL JACOBS:

14 Give me five seconds.

15
16 COUNCIL PRESIDENT ANDREWS:

17 We will read -- no. There may be a question for you, but we will read whatever you submit
18 to us.

19
20 NEAL JACOBS:

21 Ask me a question, please, so I'll have a few more -- I just need one second here. I want
22 you to see what an average picture looks like.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Mr. Jacobs, your time is up. Thank you.

26
27 NEAL JACOBS:

28 Can you ask me a question?

29
30 COUNCIL PRESIDENT ANDREWS:

31 We'll see if there's a question for you. Our next speaker --

32
33 NEAL JACOBS:

34 Well, is this --

35
36 COUNCIL PRESIDENT ANDREWS:

37 Mr. Jacobs, your time is up. Our next speaker is Mr. Reardon Sullivan.

38
39 REARDON SULLIVAN:

40 First of all, I'd like to thank the Council for allowing me this chance to speak in front of you
41 guys.



June 9, 2009

1
2 NEAL JACOBS:

3 Oh, I see. Nice.
4

5 REARDON SULLIVAN:

6 My name is Reardon Sullivan. I'm a longtime resident of Montgomery County. I actually
7 went to Wootton High School, University of Maryland, and currently own a 40-person
8 engineering firm in Rockville. I am against the speed cameras for one main reason --
9 number one, I don't think that they pick up one of the major hazards on our roadways in
10 Montgomery County right now, and that is some of the bicyclists. From what I've seen,
11 there's bicyclists that actually come up from D.C. They routinely ignore the traffic signals.
12 I've actually witnessed them blowing through stop signs, stoplights, passing cars that are
13 stopped at these traffic signals. For what I'm seeing, it's pretty much a hazard on the
14 roadway. I specifically sat this past weekend at the corner of Travilah and Glen Road in
15 Damascus, and I actually videotaped bikes going through stop signs to the tune of, in two
16 hours, there was over 60 bikes that went through. Only three stopped. Now, unfortunately,
17 if I take this to the police, they can't do anything about it because you can't identify the
18 bicycles. Bicycles aren't registered. We've -- I've actually witnessed them, again,
19 speeding, riding two wide, and when I ask these folks, "Hey, what's going on? Don't you
20 usually stop at stop signs?" it's been rationalized that for their safety and the safety of the
21 cars, they don't need to stop. They state that the equipment won't allow them to take their
22 feet out of the pedals. And I've actually -- I was actually, in that two-hour period, I was
23 actually threatened by some of the bicyclers that I can't videotape what they're doing. My
24 suggestion in all this is to make the speed cameras sense -- speed cameras and stop sign
25 equipment -- sensitive enough to pick up the bicycles. I don't know if your vendors can
26 actually do that or how easy that could be, but I would think that it's something that could
27 be done. Also consider having the bicyclists register their bikes and have tags so that they
28 actually can be identified. That would not only create revenue for the county but could also
29 track the various offenders. And then finally, possibly increase police patrols in these
30 areas and actually allow -- allow the police to permit or to ticket those people who they
31 actually witness with these somewhat egregious violations. And with that, I'd like to thank
32 the county for allowing me to speak.
33

34 COUNCIL PRESIDENT ANDREWS:

35 Thank you, Mr. Sullivan. Our final speaker on this panel -- on this public hearing -- is Alyce
36 Ortuzar.
37

38 ALYCE ORTUZAR:

39 My name is Alyce Ortuzar, and I live in the Olney/Ashton area. I'm opposed to speed
40 cameras. I think they violate the basic tenets of good government -- honesty and
41 transparency and fairness. Cameras that are capturing cars going downhill that are safely

June 9, 2009



1 coasting to save gas, to save wear and tear on the car, are not the perpetrators of
2 accidents. The Montgomery County Police Department Website cites the speed as the
3 third cause of accidents. Of the 14 accidents I have witnessed, all of those accidents were
4 caused by drivers not paying attention, traveling at about 30 to 35 miles per hour, some of
5 them at two miles per hour, where they just run into a car that had stopped for a red light.
6 I'm the victim of three accidents. One was a hit-and-run, and the second one was when I
7 was at a stop sign waiting to turn, and a pickup truck was turning responsibly toward me.
8 A BMW, not paying attention, hit the pickup truck, which landed on top of my new car after
9 the hit-and-run. The driver of the hit-and-run accident possibly is on a red-light camera. I
10 can't access that camera. The law doesn't permit that. That, to me, defies public safety.
11 The accident where I was sitting at a stop sign, the police ticketed the person who did not
12 cause the accident. The police were not interested in my statements. I was the only
13 witness, as well as the victim. The police refused to investigate the car, the BMW, I said
14 caused the accident, so that driver got away with impunity. There is wide discontent in this
15 county with those kinds of sloppy police reports, and people who are causing the
16 accidents are not being ticketed by the police. Another accident I witnessed where a
17 squad car was going maybe somewhere between 60 and 80 miles an hour down 108 with
18 the sirens going, and someone driving a Land Rover who was right at the intersection said
19 he didn't hear the sirens right in front of him, went right into of these police cars. That just
20 sent the police car spinning. The police officers doing that investigation were not
21 interested in what I had to say. I was the only witness. I said they should take him to
22 Montgomery General Hospital two blocks away to test for any kind of legal or illegal
23 substances. They treated me as if I was a nuisance. Police officers create hazards when
24 they don't get out of traffic when they pull people over for routine traffic violations. They've
25 tied up Georgia Avenue on the rush hour. They've tied up 355 in the rush hour. So I think
26 there's hypocrisy in terms of what really is public safety. I don't think speed represents the
27 cause of the majority of accidents, and I refute the statistics that the police officers are
28 claiming that they have reduced accidents. And I have not been able to collect on those
29 accidents that I was a victim of, and in the one accident -- in the one speed ticket that I
30 received, I was going downhill, and I was coasting, and when I was in the courtroom, just
31 about every motorist there who had no history of traffic violations, no history of causing
32 accidents, said the same thing -- they were coasting, you can see where the car's going to
33 go uphill, they were saving wear and tear on their car, saving money on gasoline. I
34 understand this company is getting \$18,000 a month and the county is getting millions of
35 dollars that's coming right out of the disposal income of people who don't have very much.
36 It's coming out of the pockets of our local businesses, and I don't think you're reducing
37 accidents, I don't think you're making roads safer. And even when some of the drivers
38 convinced the judge that they didn't deserve the ticket, the judge still made each one of
39 those individuals pay the \$16. So it's not that people aren't paying attention and don't see
40 the signs. It's that people are not consciously speeding. They're looking at their gas
41 mileage. They're looking at how safe it is to just coast downhill. Research Boulevard, that



June 9, 2009

1 has a red light camera, is a very steep hill. And the yellow lights are timed very differently.
2 I've asked the police for different timings for different intersections. So I would encourage
3 you to reconsider because I think it's harming the economy more than anything else. I
4 don't think it's making the streets safe. Now, I did want to speak on another item. I don't
5 know how that works. Delphine told me -- do I wait till that item comes up?

6
7 COUNCIL PRESIDENT ANDREWS:

8 Actually, we do have a separate public hearing on that, so yes, if you wouldn't mind.

9
10 ALYCE ORTUZAR:

11 OK. Thank you.

12
13 COUNCIL PRESIDENT ANDREWS:

14 Thank you very much. All right. We do have a couple of Councilmembers who have a
15 question or comment. Councilmember Leventhal.

16
17 COUNCILMEMBER LEVENTHAL:

18 Mr. President, thank you. Captain Damskey, the statistic that you cited of a 50% reduction
19 in fatalities certainly got my attention, and I've been in touch with Patrick Lacefield, with
20 our Director of Public Information for the county, and I also want to suggest that Neil
21 Greenberger work with the Police Department. I would like to see county government
22 mount as assertive an effort to get some of these traffic safety statistics out to the public
23 as other efforts that the county has made recently to address issues of public safety. I
24 think we -- and Patrick is aware of this, I've spoken with him about this. I think, you know,
25 this is a new program. Anything that is new that the government does will evoke some
26 reaction from the public. We're certainly getting a lot of reaction to this program. I certainly
27 get it in the community from my constituents. We've heard some of it here today. And I do
28 hope that the Police Department will assist the public in understanding the public safety
29 benefits of the program, as you've done here today, but I think we need to do a more
30 proactive public education effort, and I hope perhaps you could participate with Mr.
31 Lacefield and Mr. Greenberger in that regard.

32
33 JOHN DAMSKEY:

34 Mr. Leventhal, I appreciate your comments, and I couldn't agree with you more. If you look
35 at our Website, that's in the process of being redesigned. I spoke about a report that we're
36 putting together right now that hopefully will be finished by the end of the month. That is
37 just the beginning of our public information initiative, for lack of a better word. But there
38 are so many good things that this program is doing, and you couldn't describe it better.
39 We need better public outreach. We need more information on the good things.

40
41 COUNCILMEMBER LEVENTHAL:



June 9, 2009

1 Please keep the Council thoroughly advised, even if it's still in development, because all
2 of us are fielding correspondence every day, many from people who support the program,
3 some from people, as we've had witnesses here today, who have concerns about the
4 program. So any information you can provide to assist us in -- particularly this statistic that
5 you've stated here today that there has been a 50% reduction in traffic fatalities in
6 Montgomery County. Is that in a one-year period or since -- two years, since the
7 implementation of the program? What is the timeframe?

8
9 JOHN DAMSKEY:

10 We have a -- currently, year to date, we have a 53% reduction in fatalities as of today,
11 compared to last year.

12
13 COUNCILMEMBER LEVENTHAL:
14 In calendar '09.

15
16 JOHN DAMSKEY:
17 In calendar '09.

18
19 COUNCILMEMBER LEVENTHAL:
20 Thank you very much.

21
22 JOHN DAMSKEY:
23 And we had a reduction of 50% the year before.

24
25 COUNCILMEMBER LEVENTHAL:
26 Thank you very much.

27
28 JOHN DAMSKEY:
29 Yes, sir.

30
31 COUNCIL PRESIDENT ANDREWS:
32 Thank you. Those are striking numbers. Council Vice President Berliner.

33
34 COUNCIL VICE PRESIDENT BERLINER:
35 Captain Damskey, you heard some criticisms with respect to this program, particularly
36 with respect to the prioritization as to where these cameras have been placed. My
37 understanding has been that they are to be placed near schools where you have seen
38 evidence that there in fact are serious issues. Is that correct?

39
40 JOHN DAMSKEY:
41 It's partially correct, sir.

June 9, 2009



1
2 COUNCIL VICE PRESIDENT BERLINER:

3 Thank you. I'll take partial, but I'll also take the clarification.
4

5 JOHN DAMSKEY:

6 OK. Clarification. The statute states that we can -- we can place cameras, automated
7 speed cameras, in residential neighborhoods, residential roadways, or in school zones.
8 Now, the residential roadways must have a speed limit of 35 miles an hour or less. School
9 zones are merely that -- school zones. Out of the 60 cameras that we have in place
10 currently, 22 of those are in school zones right now. We do not just go out and place
11 cameras. There is -- there is a thorough process that -- that we practice every time we
12 consider a site, and that includes feedback from our residents.
13

14 COUNCIL VICE PRESIDENT BERLINER:

15 Why don't you give a little more fullness to that process? Because I do think a lot of
16 citizens ask themselves, how did a speed camera get placed here? We took a little
17 informal survey of the number of members of the Council who have been caught in these
18 speed cameras, and I think you have a majority, and we are not complaining about it, but
19 there are questions with respect to where they're placed, why they're placed where they're
20 placed.
21

22 JOHN DAMSKEY:

23 I understand. We receive as many requests -- actually, more requests for speed cameras
24 than we do complaints, and we get them every day. I had five before I came here to testify
25 today. These are people that are looking out and saying, "Look, I have problem with
26 speed on my neighborhood road or in my school zone. I need you to come out and do
27 something about it." Some of them are very passionate in their expression of concern, and
28 they have where else to turn, they feel, sometimes. They come to my division, and they
29 want a speed camera. So what we do is, when we get requests for that -- and that can
30 come from the public, it can come from public officials, it can come from police officers, it
31 can come from within my own division, where we've identified roadways where we have
32 seen what we determined is a possible speed problem. Now, speed problems are directly
33 related to crashes, and crashes are directly related to injuries. So this is a public safety
34 initiative for us where we use this very limited resource to increase the safety of our -- of
35 our residents and our drivers and our pedestrians. So the first thing we do is, we go out,
36 and we measure that roadway. We get roadway volume metrics, and that study looks at
37 the speed, the volume, the speed limit, the surrounding area. Is it in a residential area?
38 Are there any pedestrian hubs -- in other words, are there any things around, any
39 structures around that site, that portion of the road, that would attract pedestrians, would
40 attract drivers? Houses of worship, crosswalks, bus stops, rec centers, schools -- those
41 items that we see pedestrians typically walking to. That gives us a... for lack of a better

June 9, 2009



1 word, I guess a score. We determine a score, and we assign that. It's either low score,
2 high score -- we give it a check. We look at the speed and the design of the roadway. Is it
3 somewhere where we can actually deploy this radar, this technology, or is the roadway
4 such -- designed in such a manner that it would prohibit an effective use of this limited
5 resource? We look at crash history. We look at the number of crashes that have occurred,
6 and we look at property damage accidents, personal injury accidents, and fatalities. All
7 that goes into the mix. We also go out there and actually lay feet on the ground and look
8 at our roadways. And once we get a feel for what that roadway is bringing us, we then sit
9 down and we determine, is this best for a mobile site, which we have a limited deployment
10 time, or is this something that it's very difficult to park a van, very difficult for a police
11 officer to go out and run radar or laser, so that it would probably be safer to put a fixed
12 pole that would be 365 days a year, 24 hours a day. Once we gather all this information,
13 we then present this to a citizen advisory board, and a citizen advisory board is made up
14 of representatives from the different police districts around the county. And we bring them
15 together. We show them a video of where we want to put this camera. We use them as
16 our feedback, because many times police officers see things as just as enforcement and -
17 - I've been doing this for 20 years, and sometimes you do things like this. You want -- you
18 want that feedback from your residents. You want that feedback from civilians. They help
19 us prioritize what sites we'll install cameras at first, what sites that when they look at, they
20 might scratch their heads and say, "Did you consider this? Did you also consider possibly
21 putting this road at the top of your list because there's that school you didn't think about?"
22 Things like that. Based upon that, sir, what we then do is, we look at the number of
23 cameras that we actually have. I keep saying it's a limited resource. We can't put them
24 everywhere, nor do we want to put them everywhere. So we do is, we try to pick out those
25 sites that are the most deserving. Now, right now, you have 60 cameras in the ground,
26 which equates to about 37 actual sites where we're enforcing speed, we're using these
27 cameras. It doesn't end there. We go back out, and we look at the volume metrics that our
28 cameras are constantly capturing -- the passes of vehicles, the numbers of citations. We
29 go back, and we hear the stories of, well, people speed up to the site and then they slow
30 down, and then they go through the site, and then they accelerate again. So we put our
31 measuring devices on the other side of the cameras. We also -- if we determine that that's
32 a problem, we put the officer with the laser just over a quarter-mile down the road so that
33 people that are not changing their behavior, people that are speeding and don't get it, they
34 will then get a uniform Maryland citation assessing points, reporting to their insurance
35 company. And this is important things for us, because what that then does is, it changes
36 behavior. And what we're finding, by and large, is the vast majority of our drivers are not
37 accelerating out of our speed zones. They are slowing down. They are changing their
38 behavior. And we're seeing those statistics. And this is a continuing gathering of
39 information. So I hope I answered your question.

40
41 COUNCIL VICE PRESIDENT BERLINER:

June 9, 2009



1 You -- you -- ha ha! It was just short of a filibuster, but actually, it was -- it was exactly
2 what I was looking for because I think people are asking themselves, how careful are you,
3 how involved is the community, and I think your response is assuring that this is done
4 carefully, with community input, and as Councilmember Leventhal observed, the statistics
5 are -- are pretty striking. In my community -- you probably are aware, in the Potomac
6 community, there were the secretagents.com who put out signs that suggested, "Watch
7 out. Speed camera ahead." And there was part of me that when I saw this, I actually was
8 OK with, because I felt it still enforced the notion that you'd better slow down, and that's
9 what we are seeking to do here, is to tell people to slow down. Now, speed cameras only
10 give you a ticket if you're 12 miles over the speed limit. Is that correct? 11 miles?

11
12 JOHN DAMSKEY:

13 Actually, the current statute, the current law, is 10 miles over. Montgomery County gives
14 you an extra mile, so we don't start writing --

15
16 COUNCIL VICE PRESIDENT BERLINER:

17 We go the extra mile in Montgomery County?

18
19 JOHN DAMSKEY:

20 We go the extra one mile. Now, that law will change October 1, and we -- it will get
21 bumped, the threshold we bump to 12.

22
23 COUNCIL VICE PRESIDENT BERLINER:

24 Can we -- can we bargain here? So we're now at 11, we'll go to 12.

25
26 JOHN DAMSKEY:

27 Correct.

28
29 COUNCIL VICE PRESIDENT BERLINER:

30 Your thoughts with respect to the secretagent.com phenomenon?

31
32 JOHN DAMSKEY:

33 I think it's great. I think it's great. If I could put my lieutenant out there in a gorilla suit in
34 front of every Safe Speed zone saying "slow down, slow down," and we issued no
35 citations, that's a win for us.

36
37
38 COUNCIL VICE PRESIDENT BERLINER:

39 Yes.

40
41 JOHN DAMSKEY:

June 9, 2009



1 That's what we're trying to do here. We're trying to declare victory on every one of our
2 sites, every one of our roadways, whether we're out there with our supplemental
3 enforcement, which are our cameras, or whether we're out there with our primary
4 enforcement, which is the police officer running radar, running laser, doing traffic
5 enforcement.

6
7 COUNCIL VICE PRESIDENT BERLINER:
8 Thank you.

9
10 JOHN DAMSKEY:
11 Yes, sir.

12
13 COUNCIL VICE PRESIDENT BERLINER:
14 Mr. Jacobs, I will give you, if you promise -- you asked for five seconds. I will give you the
15 five seconds. Will you honor the deal?

16
17 NEAL JACOBS:
18 I'll -- I'll do my best.

19
20 COUNCIL VICE PRESIDENT BERLINER:
21 There you go.

22
23 NEAL JACOBS:
24 I just wanted you to look at what a person, a citizen in the county gets as a violation, and
25 I'd like you to look at what they do in England about marking the street with notches so
26 that a person knows that it's true. I -- these are mine, so I can't --

27
28 COUNCIL VICE PRESIDENT BERLINER:
29 I'll give them back to you.

30
31 NEAL JACOBS:
32 OK. But I want you to notice, how many of you -- how many of you are able to read that
33 bar code at the bottom and understand what you're looking at? The average citizen who
34 gets one of these violations has no idea what they're looking at.

35
36 COUNCILMEMBER ELRICH
37 I just --

38
39 COUNCIL VICE PRESIDENT BERLINER:
40 I'm done, and I appreciate your honoring the deal. We'll take a look at these pictures.
41 Appreciate your testimony.



June 9, 2009

1
2 COUNCIL PRESIDENT ANDREWS:

3 Thank you. Our next speaker is Councilmember Navarro.
4

5 COUNCILMEMBER NAVARRO:

6 Actually, I'm not going to take too much time, but really reiterate and concur with
7 Councilmember Berliner. I think there is a bit of -- of a need to make sure that we are
8 communicating more clearly to our residents the strategic location of these cameras, the
9 placement of them, because I do know that a lot of times I also hear the feedback of just a
10 lack of understanding as to why are they where they are. And some things are -- you
11 know, some locations are really obvious, and I think the ones close to schools,
12 specifically, have been really welcome, and I think, you know, we'll always have issues of
13 pedestrian safety, and there are some spots, at least in the district that I represent, that I
14 can recognize that. But whatever we can do to make sure that our residents understand
15 the process by which, you know, these sites are selected and their strategic location, that
16 would be really important. And I want to say that, you know, I've been -- this is my first
17 session, but I already have on my desk, you know, somebody requesting the placement of
18 a camera on East Randolph Road. And so I do believe the people also have identified
19 already spots and are really eager to have some. So whatever we can do to educate will
20 be important, because there is a bit of, I think, misunderstanding of the purpose, and, you
21 know, whatever issues we can address to better inform our residents would be
22 worthwhile.
23

24 JOHN DAMSKEY:

25 Yes, ma'am.
26

27 COUNCIL PRESIDENT ANDREWS:

28 Thank you, Councilmember Navarro. Councilmember Floreen.
29

30 COUNCILMEMBER FLOREEN:

31 Thank you very much. Captain Damskey, I see why you're in this position. Your
32 responses to Councilmember Berliner and to Councilmember Leventhal were incredibly
33 helpful, and I need a tape of that to -- that I can bring home to show my husband, because
34 we've been engaged in this very colloquy at home. I really just wanted to follow up on
35 Councilmember Leventhal's request because it is becoming a big issue, and as we locate
36 these everywhere -- folks, it's seeping into our community consciousness, the extent to
37 which our choice of driving behavior exceeds that of community expectations, resulting in
38 -- in the -- in a lot of mail and consequent responsibility to pay -- to pay the fee. So I would
39 ask that you put together, in response to Mr. Leventhal's request, a summary of the
40 process, as well -- not just our achievements, but -- so people understand the issues that
41 have driven this, and, frankly, your explanation for Councilmember Berliner, I thought, was

June 9, 2009



1 incredibly helpful, so that community members -- so that we can have this to explain to
2 community members. I was at an event in Leisure World a couple of weeks ago, and I --
3 clearly, there is a revenue stream somewhere in that vicinity, because there are very
4 strong feelings about some of your cameras in that neighborhood, and I think what we --
5 we have an obligation as government at least to provide this information and to help folks
6 understand what the competing concerns have been and what the process has been for
7 location, because we will have, certainly, as we've heard today, folks who have strong
8 feelings and obviously have had some -- run into some unfortunate experiences and are
9 still bristling from that. So it's our job, as elected officials, to -- to at least provide the
10 background information for how things have come to be. So if we could -- if you could
11 provide that to us at this point.

12
13 JOHN DAMSKEY:

14 Yes, ma'am. I'll make sure that you have the tools to do your job. Absolutely.

15
16 COUNCILMEMBER FLOREEN:

17 That would be tremendously helpful. I will note there's -- perhaps it's today that
18 precipitated all the stories about -- somebody had some sort of GPS device or something
19 that they're making available to folks that identify the locations of these cameras. I think
20 it's great. This is already in place in San Francisco and other places, and anything that
21 occurs that helps people obey the law, I think, is a productive tool. So, to the extent there
22 are these notification systems, to the extent there are these computer Websites, to the
23 extent that there are any devices out there, it saves us money in terms of our requiring
24 you to sit at a community location of concern and issue a ticket, and it helps -- protects the
25 safety of our pedestrians in our residential and school communities. So I think it's a great
26 thing that there are some informational sources out there. People are learning, and it's
27 going to take a while. So if you can get us that material, that would be very handy. We will
28 put it on our Websites, I'm sure, and I'm sure concerns are going to continue to rise, and
29 we need to get that word out there. Perhaps also, a presentation to some of the civic
30 associations would be helpful, as well.

31
32 JOHN DAMSKEY:

33 We have been doing that since 2007. Actually, 2006 we started, but that's a constant for
34 us.

35
36 COUNCILMEMBER FLOREEN:

37 I think you're going to be really in demand.

38
39 JOHN DAMSKEY:

40 Yes, ma'am.



June 9, 2009

1 COUNCILMEMBER FLOREEN:

2 Thank you.

4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Councilmember Floreen. And I would agree that your answers are very
6 thorough, and we have this on tape, so hopefully, we can use some excerpts from this to
7 get the word out to an even broader audience about how the selection process is done,
8 how much community impact there is. You mention that the cameras are a limited
9 resource, and that is undoubtedly true. It's also true that police officers are a very limited
10 resource, and that the cameras -- although you still do have police officers running radar,
11 the cameras do free up some officers from doing that who then can focus on investigating
12 crime and other things that only police officers can do. So I think that is an important
13 benefit of the program, as well. Councilmember Elrich and then Councilmember Knapp.

15 COUNCILMEMBER ELRICH:

16 I want to thank you for the comment you made. I think it was very illuminating. But I'll
17 make a couple of observations. One is that I don't think there's a bad place for a speed
18 camera placement. It would be one thing if we were ticketing people for 31 in a 30 or, you
19 know, 36 in a 35, but when essentially you can do 40 in a 30, 45 in a 35, and 55 in a 45,
20 it's hard to argue that we're being burdened by having to watch our speedometers to
21 make sure we don't creep over the -- the legal posted speed limit. There's plenty of
22 leeway in this system for a person not to be held to this, you know, "I'm breaking the law
23 by a mile, and you got me." This is not a "you got me" system. This is, beyond 10 miles
24 over the limit is really not a reasonable thing to be doing. And I've -- what's the right word
25 for it? I've chafed at some of the limits on county roads, and I'm probably not the only
26 person who's said, "I can't believe the speed limit here is this." But I don't think I have the
27 right then arbitrarily to decide what the speed limit ought to be and feel like I ought to be
28 able to do 45 because it looks straight and clear to me. That would be a rather chaotic
29 system to have, and I'm happy to have the limits that you've got here. The other thing is
30 that I think that what's changed my behavior-- and I think all of us agree has probably
31 changed our behavior -- but I've found that I don't look for where the signs are anymore
32 because that is a distraction to my driving. I focus on what the speed limit is. I don't want
33 to have to be driving down the road and worry about whether I caught the white lines and
34 the warning about they're going to take my picture. It's much simpler to say, "The speed
35 limit here is 35, I know I've got some leeway, I'm sure not going to go over that," and be
36 able to drive comfortably than to spend my time trying to figure out where your -- where
37 you've posted your cameras. So actually I find it's changed my behavior not just in the
38 speed zones where I know you are, it's changed my behavior driving, period, and I think
39 that's a good sign. I mean, I'm not -- you know, if I could drive fast, I drive fast, but, you
40 know, it's good to have these restraints. And I'm happy to live with them. I think it's healthy
41 for the community, and thank you for the work you are doing.

June 9, 2009



1
2 COUNCIL PRESIDENT ANDREWS:

3 Thank you, Councilmember Elrich. Councilmember Knapp,

4
5 COUNCILMEMBER KNAPP:

6 Thank you, Mr. President. I just wanted to thank Captain Damskey because we've had
7 lots of interaction between my office and him and places where we have requested
8 cameras, places where people haven't liked cameras, and you've just been -- you've been
9 very responsive, and we appreciate working together to address the issues and concerns
10 of the community. And there will be many more that will come up, but I thank you for the
11 efforts so far.

12
13 COUNCIL PRESIDENT ANDREWS:

14 Thank you, Councilmember Knapp. And there are no other comments or questions, so
15 that does conclude this public hearing. Thank you all very much. We're now going to
16 move on -- or go back to the agenda Item 6, which is Zoning Text Amendment 09-02,
17 Special Provision - Parcel Consolidation. This is a public hearing on Zoning Text
18 Amendment 09-02, Special Provision - Parcel Consolidation, that would allow the
19 consolidation of certain lots, parts of lots, or parcels under certain circumstances. Persons
20 wishing to submit additional material for the Council's consideration should do so before
21 the close of business Friday, June 26, 2009. A Planning, Housing and Economic
22 Development Committee worksession is tentatively scheduled for a later date. If you have
23 written testimony, please hand it to the clerk. Each of our speakers -- and they are
24 Gregory Russ of the Montgomery County Planning Board, David Freishtat, representing
25 Paul Wallace, and Paul Meehan, speaking as an individual -- have three minutes, and the
26 yellow light will go on after two and a half. So our first speaker will be Mr. Russ.

27
28 GREGORY RUSS:

29 Thank you, Council President. For the record, Greg Russ, from the Montgomery County
30 Planning Board. The Planning Board did hear this text amendment at their last meeting on
31 June 4, and they voted unanimously to -- to approve this text amendment as modified by
32 staff to clarify the intent of it. The text amendment proposes to permit existing lots, parts of
33 lots, or parcels to be consolidated into a recorded lot that does not meet certain
34 requirements of the underlying zone, so that a one-family dwelling that is or was located
35 across property lines can undergo a major renovation or replacement. The amendment is
36 needed because the subdivision regulations do not permit a building permit to be issued
37 for most structures that are not located on a recorded lot or for any structure that crosses
38 a lot line. Under current law, the affected tracts of land can be subdivided or re-subdivided
39 into buildable -- into a buildable lot to eliminate the interior property lines. However, the
40 resulting lot must satisfy all the applicable zoning requirements of Chapter 59. If the
41 proposed amendment is adopted, the affected tracts of land will be able to be

June 9, 2009



1 consolidated under the subdivision regulations into one buildable lot without regard to the
2 width and size requirements of the underlying zone if the tracts of land are under common
3 ownership and a one-family dwelling crossed the property line created by deed or plat.
4 The Planning Board supports the proposed amendment but recommends additional
5 language, as I mentioned, to clarify the intent. First, we recommend that the Provision A2
6 be modified to include the requirement that documentation be provided to verify the
7 existence of a dwelling, which is primarily important when the dwelling no longer exists.
8 Second, the Board recommends a new provision that requires all the tracts of land on
9 which the dwelling is or was located to be included in the newly created lot. The Board
10 believes that this provision is necessary to prevent more than one lot from being created
11 in an instance where a dwelling crosses several property lines. Be happy to answer any
12 questions you may have.

13
14 COUNCIL PRESIDENT ANDREWS:

15 Thank you, Mr. Russ. Our next speaker is Mr. Freishtat.

16
17 DAVID FREISHTAT:

18 Good afternoon. My name is Dave Freishtat at Shulman Rogers, and I represent Mr. Paul
19 Wallace, the owner of Lots 13 and 14 and Block 15 in Brookmont who gave rise to this
20 problem. I have given to all of you a copy of my October 21 letter to Mr. Zyontz outlining
21 the situation that prompted the drafting of this text amendment. Basically, Mr. Wallace had
22 a house on two lots, each with 2,400 square feet, in Brookmont. He went and got a
23 demolition and rebuilding permit from DPS, tore the house down, went into the Planning
24 Board to do a minor modification -- a minor subdivision, pardon me, of his property to
25 make it into one lot because you had a interior lot line and had to stop there because he
26 didn't have 5,000 that he needed to get a legal lot. This text amendment would correct
27 that. Thank you very much. And I appreciate -- by the -- Mr. Berliner, I appreciate your
28 help in getting this introduced and Mr. Zyontz and Cathy Conlon for their help in getting
29 this thing drafted. Thank you.

30
31 COUNCIL PRESIDENT ANDREWS:

32 Thank you. Our final speaker on this panel is Paul Meehan, speaking as an individual.

33
34 PAUL MEHAN:

35 Good afternoon. And I'd like to thank the Council for this opportunity to testify and also
36 Councilmember Berliner for introducing this amendment. My name is Paul Meehan, and
37 as a homeowner directly affected by this proposal, I'm here to testify in support of Zoning
38 Text Amendment 09-02. I'm a lifelong resident of Montgomery County, and my wife and I
39 have lived at 6557 Broad Street in the Bethesda neighborhood of Brookmont, which you
40 may have heard of, for six years. We have many friends in the neighborhood, and we're
41 very involved in our community. We're also very attached to the site where our home sits.

June 9, 2009



1 Our hope and expectation is that this will be our home for the rest of our lives. Brookmont
2 was platted in 1925 and is made up -- was made up of hundreds of small lots, most of
3 them about 20 feet wide and 100 feet deep -- perhaps facilitating sales by developers and
4 builders to prospective homeowners who would be able to buy as many lots as they
5 wanted or as few lots as they wanted. As a result, virtually all of the homes in Brookmont
6 were built on two or more lots -- many, of course, including ours, straddling lot lines. Our
7 house was built in 1952 and, aside from necessary maintenance, is essentially
8 unchanged. As the time for major expenditures -- new roof, new HVAC system, new
9 windows came -- we gave serious consideration to renovating and modestly expanding
10 our home, but after discussion with architects, energy consultants, and builders, we
11 decided that, given the cost of bringing our existing house up to current standards of
12 plumbing, electrical, and, of particular importance to us, energy efficiency, new
13 construction was the most cost-effective option for us. We drew up plans to build a new
14 house on essentially the same spot as our existing house only to learn, as we were
15 preparing to demolish our house, that because our parcel consisted of two lots, with our
16 existing home straddling the internal lot line, we were prohibited from building a new home
17 because new construction, as opposed to alteration or addition to existing -- an existing
18 structure, is not permitted across lot lines. Now, the traditional remedy in a situation like
19 this is to re-subdivide the lots, creating a single lot and thereby eliminating the internal lot
20 line. In our case, because the total size of our property was less than 5,000 square feet,
21 we were effectively precluded from building a new house on our property. In our view, this
22 comes down to a simple matter of equity or fairness. We think all county homeowners
23 should be treated equally, and we would like to have the same rights to develop or build a
24 new house on our property as other county homeowners. We know of no opposition to
25 this amendment, and I urge the county to adopt it. Thanks.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Thank you, Mr. Meehan. There are no questions for the panel, so thank you very much.
29 This public hearing is concluded, and a PHED Committee worksession will be scheduled
30 for a later date.

31
32 DAVID FREISHTAT:

33 Thank you.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Thank you. We're now going to go on to agenda Item 7, which is the special appropriation
37 to the Montgomery County public school system, FY09 capital budget, in the amount of
38 \$335,000 for the current replacements/modernization project at Walter Johnson High
39 School. Persons wishing to submit additional material for the Council's consideration
40 should do so before the close of business Thursday, June 11, 2009, and action is
41 tentatively scheduled for June 16, 2009. And this involves the replacement of the current

June 9, 2009



1 field with artificial turf, so we have a number of speakers here who have signed up for this
2 public hearing. We have two panels. The first panel will be Paula Bienenfeld, representing
3 the Coalition for Safe, Healthy Playing Fields, Kathleen Michaels, speaking as an
4 individual, Anne Ambler, speaking as an individual, Tom Murphy, speaking as an
5 individual, and Bruce Pitts, representing the Bethesda Soccer Club. So please all join us
6 at the front, and before you speak, please be sure to push the button, introduce yourself.
7 When the yellow light goes on, which will be flashing, you'll have 30 seconds to go. Red
8 light means three minutes are up and please conclude the sentence that you're on. And
9 please stay at the table. There may be questions for you or other members of the panel. If
10 you have written testimony, please give it to the clerk to my left, and we will read any
11 testimony that you don't have the time to deliver. Miss Bienenfeld, you're first.

12
13 PAULA BIENENFELD:

14 Thank you. Paula Bienenfeld. I want to thank you for holding this meeting and taking
15 public testimony. I really appreciate it. I've already sent all of you, with the exception of
16 Councilmember Navarro, a packet with a number of concerns regarding the environmental
17 and public health effects of installing artificial turf made of crumb rubber -- that is, ground-
18 up, used rubber tires -- and I -- actually, I think Ms. Navarro has a copy now of the packet.
19 This is what the ground-up rubber tire looks like -- crumb rubber. This was shaken out of a
20 show. A friend of mine is a coach for middle-school kids, and she said this stuff gets in her
21 shoes all the time, and this is what it looks like, but you should remember that one football
22 field will contain 26,000 recycled tires, or 120 tons of crumb rubber. And the crumb rubber
23 does include ethylene, propylene, and other poly aromatic hydrocarbons, arsenic,
24 cadmium, lead, nickel, and so forth. And only eight states have no restrictions on placing
25 tires in landfills. I want to also talk about the heat island effect that's created. That was
26 also in a packet I sent to you a while ago. This is a photograph of -- taken by NASA from
27 space that shows the heat island that is created by an artificial turf field. This heat island
28 effect is going to be going on 24/7, whether players are there on the field or not. It's a
29 permanent situation -- the heat island that's created. I want to talk briefly also about the
30 lobbying efforts by synthetic turf manufacturers and especially, of course, also
31 FieldTurfTarkett. On May 12, 2008, turf industry lobbyists met with Commissioner Thomas
32 Moore of the Consumer Product Safety Commission, and there is a log of what was said,
33 and here's just a quote. "Commissioner Moore indicated that the children's product issue
34 was important because as contemplated in legislation passed by both chambers, in
35 general, children's products which contain lead above certain levels would be banned,
36 regardless to lead accessibility." And then the turf manufacturers sent a thank-you note,
37 and a paragraph in the thank-you note says, "We are particularly appreciative of your
38 admonition to ensure that our product does not become categorized as a children's
39 product within the meaning of eventual conference agreement on HR40-40" -- a federal
40 legislation. "We've taken your comments to heart and are in the process of communicating
41 our concerns the members of the conference committee." So I think that makes it clear



June 9, 2009

1 that there's been a lot of lobbying efforts on the part of the artificial turf committee. I would
2 urge you to vote against it and really vote in favor of our sod farmers in the county and
3 keep the money in our county and have natural sod. Thank you.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Thank you for your testimony. Our next speaker is Kathleen Michaels.

7
8 KATHLEEN MICHAELS:

9 Thank you. Good afternoon. I'm Dr. Kathleen Michaels. Thank you for giving me a chance
10 to speak today as a citizen, as a mother of two very athletic boys who use many of the
11 fields and are in the local schools, and a member of the Safe, Healthy Playing Fields
12 Coalition. I am also a neuroscientist. I started my career studying the effects of extremely
13 low levels of lead on the developing nervous system and brain. I watched the long
14 struggle to get lead out of paint and gasoline. It was a struggle by scientists and unsung
15 public servants against industries more interested in profits than in the health of the
16 children and a struggle against officials who refused to act on clear evidence of potential
17 and accumulating harm. And unfortunately, it is a story repeated over and over with
18 tobacco, asbestos, and other profitable but harmful products -- most recently, as you may
19 know, the plastics industry with BPA. I know all of us here are interested in the health and
20 safety of our children and the availability of safe, health playing fields for them to play on.
21 What I ask you today is to help us make that a reality. I want to make it clear I support
22 funding for a new field for Walter Johnson. However, we need to ensure that the field is as
23 safe as possible, given the potential known and unknown problems with this type of crumb
24 rubber plastic artificial turf. Ten years ago, there were only seven of these fields. Last
25 year, there were 3,500, and obviously multiplying since then. This explosion of plastic
26 rubber fields is essentially an unprecedented and unsanctioned experiment with the health
27 of our children. It has happened so fast that the EPA is just waking up and has just
28 announced that it will be reviewing the health and safety issues of the tire crumb in these
29 products. It's going to be, tough though. The designers and manufacturers of tires never
30 intended them to come into intimate contact with humans, and so unfortunately, among
31 the petro chemicals and other chemicals added to the tires for performance on the road
32 are a number of known and suspected carcinogens, neurotoxins, and reproductive toxins.
33 But in addition, there are dozens more that we don't have a clue about. They have never
34 been tested for their effects on humans, much less children, since no one ever expected
35 them to come into such direct contact with people. The pigments in the plastic blades
36 contain lead above federal guidelines up to about 30% of the time, according to the
37 Association of Synthetic Grass Installers, and as of a month ago, none would certify
38 themselves lead-free. Among the known compounds are polycyclic hydrocarbons and
39 some of the other compounds she mentioned. The levels and amounts vary by source of
40 tire and manufacturer of the turf. Therefore, testing and monitoring must be done on a
41 field-by-field basis. Such testing requirements for monitoring -- or such testing and



June 9, 2009

1 monitoring must be done at a local level since, due to a loophole in the regulations, there
2 are currently no requirements for monitoring of the safety of the known toxic chemicals in
3 artificial turf. In particular, the industry successfully lobbied, as you just heard.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Dr. Michaels, I have to stop you there, but we will read your written testimony, and thank
7 you very much. And anyone should feel free to submit additional information to us. Our
8 next speaker is Anne Ambler.

9
10 ANNE AMBLER:

11 Good afternoon, and welcome, Councilmember Navarro. I'm Anne Ambler, parent of two
12 MCPS graduates and current president of a watershed protection non-profit. Artificial turf -
13 - A.T. -- is raising a lot of heat here and abroad, and not just in the field where colored
14 plastic and nylon blades poke through a couple of smelly inches of pulverized used tires.
15 Nothing's easy. Did Montgomery County think these fields posed no health or
16 environmental concerns because "everyone" was getting them, as you heard from Kathy?
17 Remember asbestos? Remember DDT and leaded gasoline and cigarettes? Remember
18 how cigarette manufacturers denied that cigarettes were addictive, let alone carcinogenic,
19 and how they lined up doctors to endorse their brands? Producers of the carcinogen BPA
20 have been experimenting on us with hard plastic bottles, toys, and sippy cups, and are
21 even now fighting a ban. Plastic-softening phthalates -- endocrine disrupters present in
22 crumb rubber -- have been banned from children's products, but synthetic turf avoided this
23 classification. So now we're experimenting again with lead, among other toxins, and our
24 kids are the first lab rats. Then we all are, as the various leachable components of tires
25 and blades enter our streams and ultimately our drinking water and bioaccumulate. But
26 further, it appears from yesterday's Education Committee meeting, that we have
27 embarked on this experiment with no consideration of disposal cost, which could add
28 another \$130,000 to the deal, and no true idea of maintenance cost, since neither
29 sanitizing nor water cooling the fields had been considered. Environmental problems
30 include water contamination and runoff, contribution to global warming through heat island
31 effect, and hazardous waste disposal. I'll send highlights of those in writing. Whether or
32 not you decide to put artificial turf at Walter Johnson, I urge you to accept the Safe,
33 Healthy Playing Fields Coalition demands concerning testing, monitoring, disposal, and
34 warning signs. I also urge you to truly test performance and lifecycle costs by installing a
35 pilot organic turf field, as has been done successfully in Bradford, Connecticut. Why not
36 support our local turf industry and contribute to the economic viability of the Ag Reserve?
37 In the remaining time, I have pictures from yesterday. The first picture -- and you have this
38 in your packet. These are the Richard Montgomery field at the top and two of the
39 soccerplex fields at the bottom. You will notice there's nobody there, nobody but me. So
40 there is time for these fields to rest. They are not used constantly. This picture, which is
41 also in your packet, these two -- you can see granules among the plastic grass blades,

June 9, 2009



1 and the grass blades are lying down, so obviously they need fabric softener to perk them
2 up, which is another expense and contaminant. Piles of granules are accumulated beside
3 the field. How long before this field needs a refill? And finally, here are the granules easily
4 adhering to my hand, which I'd just put down to test the temperature. And they're also, as
5 you see in this picture, headed down the drain and into the water. Synthetic fields are not
6 the panacea portrayed. Branford has shown we can do better. Let's do it. Thank you.

7
8 COUNCIL PRESIDENT ANDREWS:

9 OK. Thank you very much. Our next speaker is Tom Murphy.

10
11 TOM MURPHY:

12 Good afternoon, President Andrews, members of the Council. I'm Tom Murphy. I'm a
13 parent in the WJ cluster, and it's always a pleasure to be here. I'm here this afternoon to
14 support the MCPS proposal to install an artificial turf field in the WJ stadium as part of the
15 school's ongoing modernization and to offer you some background on the issue in our
16 community. Members of the WJ community, including administrators, staff, and many
17 parents, have studied this matter carefully since it was first raised informally over 18
18 months ago. At the time, it was at best a very remote possibility, but the advantages were
19 quite clear, and so, more out of hope than expectation, we continued to explore the
20 matter, researching each of the areas of concern that has been raised today with these
21 fields. Subsequently, our PTSA, our Booster Club, and our foundation endorsed the
22 concept on a joint letter to the MCPS in February 2008. Among its key features, artificial
23 turf offers more far playing time than natural grass. An artificial turf stadium field would
24 therefore benefit our athletic programs enormously by making more playing time available
25 for both practices and competition. This would mitigate the loss of some of our practice
26 field space due to storm water management requirements, reduce the need for off-site
27 travel for practices, provide higher quality playing surfaces for the safety of our students,
28 and help ensure we will be able to offer a broad range of athletic opportunities for our
29 students well into the future. Similarly, from a community standpoint, installing a turf
30 stadium field at WJ would help address the chronic shortage of playing field space in the
31 downcounty area by making more playing time available at our location. The Walter
32 Johnson PTSA considered the current proposal in detail at its meeting on February 17,
33 2009, and voted unanimously to support it. Our boosters and foundation continue to
34 support it, as shown in the March 10 letter to the Board of Education I have included today
35 with my written testimony. Accordingly, I urge that you join in supporting the proposal, and
36 I thank the MCPS staff for preparing it and the Board of Education for approving it. Thank
37 you very much for your time.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Thank you, Mr. Murphy. Our final speaker on this panel is Bruce Pitts.

June 9, 2009



1 BRUCE PITTS:

2 Good afternoon. My name is Bruce Pitts, with the Bethesda Soccer Club. I'm on the Board
3 of Directors and in charge of the field acquisition and development for the club. We're
4 here to support the Walter Johnson High School synthetic turf application, and we're very
5 proud to be partnering with MCPS in the funding of that facility. Our club has some 40
6 teams comprised of over 600 families that reside mainly within Montgomery County and
7 surrounding the Walter Johnson High School area. The first point I would like to make
8 today is that currently, as the stadium field exists at Walter Johnson High School, there
9 are -- it can only accommodate approximately 300-400 hours' worth of use, which is
10 limited solely to the students of Walter Johnson High School. The -- after its conversion to
11 a synthetic turf field, there will be some 3,000-4,000 hours of use available not only to
12 fulfill the high-school needs, but those of the surrounding community also. As a
13 professional engineer specializing in civil and environmental design and as a dad with two
14 kids in the Bethesda Soccer Club, I'm very happy, after reviewing the design and the data
15 associated with the design of the field, that my kids will ultimately be playing on such a
16 high-quality facility. Lastly, I'd like to mention that we're very proud at the Bethesda
17 Soccer Club of the efforts of the kids and families in the club. It's been a number of years
18 that our families have been raising money towards an opportunity just like this, where we
19 can provide -- so we can provide our kids a higher quality and more time on a high-quality
20 field. We've done a number of bake sales, magazine, car magnet sales, sponsored soccer
21 tournaments, and held raffles, all with the opportunity or the hope in providing this
22 opportunity to our kids to play on. Having said that, I appreciate the time, and I would ask
23 for your-all's support of this application.

24
25 COUNCIL PRESIDENT ANDREWS:

26 Thank you, Mr. Pitts. We have a question or comment from Councilmember Elrich.

27
28 COUNCILMEMBER ELRICH:

29 I wanted to ask Miss Michaels if she had any idea what the timeframe was going to be for
30 EPA review.

31
32 KATHLEEN MICHAELS:

33 I'm not sure. From what I gather, I just -- this just came out in the press, so I don't know.
34 They said that it would be within a few months, so I'm not quite sure.

35
36 COUNCILMEMBER ELRICH:

37 That they would start it, or they would complete it?

38
39 KATHLEEN MICHAELS:

June 9, 2009



1 That they would complete it, which doesn't give them very long, so I'm not quite sure
2 exactly what they'll be looking at. It wouldn't give them time for a real -- a real study, so I
3 don't know exactly what they are doing.

4
5 ANNE AMBLER:

6 Also, they're just doing crumb rubber.

7
8 KATHLEEN MICHAELS:

9 Right. And they're just doing the crumb rubber. A lot of the problem is in the blades, as I
10 noted. Lead levels have often been found in the blades, which you won't know unless you
11 do a field-by-field testing.

12
13 COUNCILMEMBER ELRICH:

14 I guess my other question would be for the proponents of the synthetic turf, what would
15 you do if the EPA comes back and says this is not a good idea? Would you support the
16 removal of the turf, and if we did that, how do we pay for what we've put in and then
17 subsequently replacing it with natural turf?

18
19 BRUCE PITTS:

20 Well, I would have to defer to MCPS with regard to the funding of the facility, but certainly
21 we wouldn't support -- but we haven't found any definitive data to the otherwise, but we
22 wouldn't support our kids playing on anything that's dangerous.

23
24 TOM MURPHY:

25 If the EPA were to weigh in on this, it would be the third federal agency to examine this
26 issue. CDC looked at it. Consumer Product Safety Commission looked at it. EPA would,
27 as I say, be the third. I would await the conclusion. There was a slight variation in the
28 position taken by the CDC versus the Consumer Product Safety Commission, but when
29 CPSC issued its report based on its own study about a year ago, it concluded that the
30 fields were safe to install and safe to play. So I guess I would have to wait and see what
31 the EPA concluded, but I don't think anyone in our community would for a minute want to
32 invest in or continue being involved with anything that would pose a safety or health risk to
33 anybody. And we did, we believe, look very closely at these issues and tried to weigh the
34 concerns on both sides, relying on expert information provided by government agencies --
35 not only federal, but state government, departments of environment and health, and --
36 right, departments of environment and departments of health in the states of Connecticut,
37 California, and New York, just to name three.

38
39 COUNCILMEMBER ELRICH:

40 I would be very interested in seeing what the EPA comes back with, and I'd be very
41 concerned about anything that passed for science under the previous administration in

June 9, 2009



1 Washington, since we know their fondness for science was not exactly -- well, they didn't
2 exactly have a fondness for science.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Councilmember Elrich. Councilmember Ervin.

6
7 COUNCILMEMBER ERVIN:

8 Thank you all very much for your testimony. It's been very interesting. We took this up in
9 the Ed Committee yesterday for the sixth worksession. So a lot of the issues that Miss
10 Ambler and Miss Bienenfeld and Dr. Michaels brought up -- I didn't realize what you did
11 for a living, so that's very interesting -- brought up, we have been going around this for
12 about a year and a half and paying very particular attention to what the experts in the field
13 have to say about this. And as you know, I brought up the fact that Mr. Lechlitter had sent
14 a letter to us regarding natural turf and the issues of storm water runoff and storm water
15 management -- issues that we all know are very important. But I just wanted to point out
16 that the committee has spent a lot of time working on this issue, and one of the things that
17 you brought up, Dr. Michaels, that is very important to me, and that is the monitoring and
18 the testing ongoing. If there are 3,500 fields like this across the country, surely in other
19 states and jurisdictions outside of Montgomery County, somebody must be doing the work
20 of monitoring and testing the safety of these fields, because I'm sitting here with Council
21 staff Essie McGuire and the members of the Ed Committee, and we are going to be taking
22 this issue up and paying very close attention to what happens as we move forward. I
23 appreciate Councilmember Erich's comments on what happens if the EPA finds out that
24 there's something going with the makeup of this material that is dangerous to children. So
25 we're taking this very seriously, I want you to know, and I really appreciate you coming
26 before us at this time. But here in Montgomery County, we have synthetic parks, we have
27 soccer fields, we have the Richard Montgomery field, and it is important to me as we
28 move forward that we put something in place -- this Council put something place -- for the
29 testing and monitoring of these fields. And without your advocacy, which we really
30 appreciate today, this really adds, I think, some really heavy-duty impetus for making sure
31 that we continue on. And so I appreciate you being here and especially would like to
32 continue this conversation outside of this meeting about what that should look like,
33 because we're relying on the expertise of people like yourself and people in the field to
34 make sure that we do the necessary thing for our children. So if -- I'm looking at Essie to
35 make sure that I have commented correctly on what we think we're going to be doing as
36 we move forward. The committee has not made a recommendation yet. We expect to vote
37 on this next Tuesday.

38
39 ESSIE McGUIRE:

40 It's currently scheduled for Council action next Tuesday, yes.



June 9, 2009

1 COUNCILMEMBER ERVIN:
2 Next Tuesday. So... Thank you all very much.

3
4 PAULA BIENENFELD:
5 Thank you.

6
7 ANNE AMBLER:
8 Thank you very much.

9
10 COUNCIL VICE PRESIDENT BERLINER:
11 Could -- stay here?

12
13 COUNCIL PRESIDENT ANDREWS:
14 Council Vice President Berliner.

15
16 COUNCIL VICE PRESIDENT BERLINER:
17 You're not excused.

18
19 COUNCIL PRESIDENT ANDREWS:
20 Stay here for a minute.

21
22 COUNCIL VICE PRESIDENT BERLINER:
23 Actually, I wanted to invite the school system to come to the table. Part of what's troubling
24 for people like myself who don't -- aren't on the committee, and I appreciate the work that
25 the committee has put into this, is I'm hearing from the school, the parents of the kids who
26 love their children, who certainly don't want anything harmful to happen to their children,
27 who have unanimously endorsed this proposition and said this is safe for our children.
28 There's been suggestions from others that perhaps it isn't and that it needs to be
29 monitored, and I wanted to hear from the school system directly in both points. I assume
30 you would not have put this forward without an abiding conviction that we would not be
31 putting our children in harm's way by doing this.

32
33 JOSEPH LAVORGNA:
34 Good afternoon. Joe Lavorgna, Acting Director of Facilities Management for Montgomery
35 County public schools. We truly believe that this is not a health concern for our students.
36 Some of the issues that have been brought up, the studies that have been brought up, are
37 old information. There was information about a field in New Jersey that contained lead.
38 That field was removed. That is absolutely true. The field was removed and replaced with
39 the same field we're proposing to put at Walter Johnson. It is lead-free. The concerns
40 about crumb rubber and runoff, I will leave that to the experts at CDC who have done
41 extensive testing of the product and have said that it is -- excuse me, the Consumer



June 9, 2009

1 Product Safety Commission, that said it was safe. We are not proposing anything, would
2 not propose anything, we believe to be harmful to children. I mean, we're in the business
3 of educating and protecting children.

4
5 COUNCIL VICE PRESIDENT BERLINER:

6 There has been a request that you monitor and evaluate this field. Your response to that?
7 Is that part of your proposal? And again, Madam Chair, to the extent to which that's your
8 proposal, do you have any objection to that being a condition for going forward to ensure
9 going the extra mile to ensure our children's safety?

10
11 JOSEPH LAVORGNA:

12 We would welcome anything that would validate the health and safety of the field. Having
13 said that, if the product is certified lead-free, I would be interested in knowing what
14 monitoring would provide and, you know, exactly what we would be monitoring for. I don't
15 believe in testing just to spend money to test, but if there's a point to it, absolutely.

16
17 COUNCILMEMBER ERVIN:

18 There's absolutely a point to it. Excuse me for interrupting. We believe that in order for us
19 to move forward, we would like to work with the school system to come up with some
20 testing and monitoring of these fields. And obviously, I'm not an expert in this field. We
21 would have to put a panel of experts together, including our Department of Environmental
22 Protection and the Health Department and some other experts that we plan to be working,
23 with the help of Council staff, to put together. We would hope to have a collaborative
24 relationship with MCPS and the Board of Education to make sure that we can make this
25 work.

26
27 JOSEPH LAVORGNA:

28 Absolutely. And you would be including Parks and the Revenue Authority for the --

29
30 COUNCILMEMBER ERVIN:

31 That would be my wish.

32
33 COUNCIL VICE PRESIDENT BERLINER:

34 Well, I appreciate those assurances, Madam Chair. As the lead for Energy and
35 Environment for the Council, obviously I am concerned with respect to the issues that are
36 raised and look forward to going the extra mile, if you will, to ensure that we've done
37 everything we can to make sure that this product is in fact safe for our children -- in a way
38 in which -- I do get that these products weren't designed originally with this in mind, and
39 therefore, it does raise questions. So I think a monitoring system as recommended by the
40 chair is certainly appropriate, and I hope that you would embrace that opportunity.



June 9, 2009

1 JOSEPH LAVORGNA:

2 Absolutely.

3

4 COUNCIL PRESIDENT ANDREWS:

5 OK. All right. I am going to ask Dr. Michaels for a quick summary of her comments in
6 response to what she's heard, because I can tell you want to say something, and I know
7 that we would hear from you anyway, and I want to hear from you now. So if you can
8 briefly summarize your continuing concerns, I gather, and then we'll move on to Panel B.

9

10 KATHLEEN MICHAELS:

11 Thank you. Since Joe is here, I think this is a great opportunity to ask him directly -- sorry.

12

13 COUNCIL PRESIDENT ANDREWS:

14 Well, direct, actually -- direct it to me.

15

16 KATHLEEN MICHAELS:

17 Direct it at you. I'm sorry.

18

19 COUNCIL PRESIDENT ANDREWS:

20 And then we can direct questions.

21

22 KATHLEEN MICHAELS:

23 But one of the questions I have is, he said that the field is lead-free. I want to know how
24 he knows that.

25

26 COUNCIL PRESIDENT ANDREWS:

27 OK. Mr. Lavorgna, how do you know that?

28

29 KATHLEEN MICHAELS:

30 Has he tested it?

31

32 JOSEPH LAVORGNA:

33 He said, she said? The manufacturer has certified that the field, the fibers in the grass
34 fibers are lead-free. So we can go get that tested, we can do whatever we want, but if a
35 manufacturer that is producing large amounts of fields, has been in the business for a long
36 time, is certifying their product is lead-free, I would certainly have to agree that that is what
37 it is.

38

39 KATHLEEN MICHAELS:

40 Sort of like cigarettes. There's no guidelines.

41



June 9, 2009

1 COUNCIL PRESIDENT ANDREWS:

2 All right. Well, we can -- that's where we are at this point. We won't resolve that today.

4 KATHLEEN MICHAELS:

5 Also heat issue. Could any of you please raise the heat issue with him, because that's one
6 of the major concerns. These fields get up to 120, 130, 140 degrees, and that's a proven
7 concern.

9 COUNCIL PRESIDENT ANDREWS:

10 All right. That's -- we'll ask that one other question for now, and then any other questions
11 that people are interested in having the committee consider, please send me or Council --
12 chair of the Education Committee, Councilmember Ervin, a list of the concerns. Mr.
13 Lavorgna, have you considered the heat issue that's associated with artificial fields, since
14 they do get very hot on hot days?

16 JOSEPH LAVORGNA:

17 Yes, they do get very hot at the surface, but the further you get from the surface, the heat
18 effect dissipates. Now, I would say when you go to the beach and the sand is hot, you
19 know that the sand is hot, but the further up you go, the difference in temperature is about
20 20 degrees per foot. I would also defer -- your second panel has the manufacturer's rep
21 from FieldTurf, who is better prepared than I am to respond to the technical questions that
22 you may have.

24 COUNCIL PRESIDENT ANDREWS:

25 OK. Very good. Well, thank you all, and we will move on to our second panel, which will
26 be Jerry Kickenson, speaking as an individual, Doug Lechlitter, representing the Maryland
27 Turf Association, Ann Gradowski, representing the Walter Johnson Booster Club, and
28 John McShane, representing FieldTurf. Please join us at the table, and each of you will
29 have up to three minutes for your testimony. At 2 1/2 minutes, a flashing yellow light will
30 go on, and then at three minutes, you'll see be a red light, so please conclude at that
31 point, and stay at the dais for any questions that Councilmembers may have. Our first
32 speaker will be Mr. Kickenson. Very good. That's fine.

34 JERRY KICKENSON:

35 My name is Jerry Kickenson. I am here as a parent of two school-age children and a
36 Montgomery County taxpayer. Thank you for the opportunity to speak with you. I support
37 the funding of this new athletic field for Walter Johnson High School for use by the school
38 and the community. But if the Council approves this particular proposal, I urge you
39 strongly to do so only under the following conditions. First, the United States Center for
40 Disease Control and Prevention stated in an official health advisory in June 2008, "At this
41 time, CDC does not yet understand the potential risks associated with exposure to dust

June 9, 2009



1 from worn artificial turf." Given this official uncertainty, the Council should direct MCPS to
2 periodically test the new field for lead, as per the CDC guidelines. To do otherwise would
3 be irresponsible as guardians of our children. Second, the Council should direct MCPS to
4 post signs warning users of the field of possible dangers and measures to take while and
5 after playing on the field. The CDC health advisory recommends this and specifies exactly
6 what should be on those signs. Third, artificial fields get much hotter than natural turf
7 fields. In conditions routinely found in Montgomery County, artificial turf field surfaces can
8 reach temperatures of 140 degrees and even higher. Burn injuries can occur at 120
9 degrees. The Council should then ensure that MCPS implements plans to monitor the
10 temperature of the new field and has actions in place if the temperature does rise above
11 120 degrees. Actions could be cooling by watering every 20 minutes or even field closure.
12 Finally, the Council should treat the creative financing of this field as the experiment it is.
13 As you know, the field will not be purchased out right. Rather, MCPS proposed to enter
14 into a lease-purchase agreement. Unusually, over 40% of the lease down payment of
15 \$786,000 and most of the annual lease payments of \$43,000 are to be funded from field
16 rental income -- most of that from a single entity, Bethesda Soccer Club. The lease
17 agreement calls for a balloon payment of \$335,000 in year six, at which time MCPS takes
18 ownership. MCPS intends to fund this last payment from rental renewals, but there is as
19 yet, as far as I know, no commitment from any entity for this final balloon payment. The
20 Council should require MCPS to report annually on whether annual -- I'm sorry, actual
21 rental income is covering the lease payments, and when a firm commitment has been
22 obtained for the final year six balloon payment. In addition, MCPS has not addressed in
23 this proposal end-of- life costs. Artificial fields have a lifetime of 7-10 years, depending on
24 use. At that time, MCPS, as owner, will have the obligation to cover disposal costs, which
25 have been estimated by a University of Arkansas report at over \$100,000 and field
26 replacement at that time. The Council should require MCPS to adequately budget for
27 these end-of-life costs.

28
29 COUNCIL PRESIDENT ANDREWS:

30 OK. Thank you.

31
32 JERRY KICKENSON:

33 Until the success of this financing arranged is established, additional fields should be
34 financed more conservatively, or not at all. Thank you.

35
36 COUNCIL PRESIDENT ANDREWS:

37 Thank you, Mr. Kickenson. Our next speaker is Mr. Lechlitter.

38
39 DOUG LECHLITER:

40 Thank you. My name is Doug Lechlitter. I am a lifelong resident farmer in Montgomery
41 County. I'm president of the Maryland Turf Grass Association that I am proud to represent



June 9, 2009

1 today. According to the 2007 U.S. census of agriculture, Montgomery County grew more
2 sod than any other county in the state. Seven farms produced 677 acres of sod,
3 generating \$5 million in sales. This is something for the citizens and this County Council to
4 be pleased with. It is clear that for agricultural to survive, it has to be a viable, profitable
5 business. The County Council has been a past supporter of the agricultural community,
6 and this is one area that Montgomery County can be number one. I came here today to
7 support funding for a much-needed new field at Walter Johnson High School. We all want
8 a safe play field for the students. When you compare a native soil field under heavy use to
9 artificial turf, it is easy to select the artificial turf as superior. There are many people with
10 well- documented information to present about the possible dangers of artificial turf, and I
11 will not repeat what others are here to present. I'm simply here to suggest the use of
12 natural turf when possible on Montgomery County public school sites. Please carefully
13 study the use patterns and, most importantly, the maintenance plans that we have or have
14 not at these fields to install the best product for each particular site. There are many areas
15 where artificial turf is not the only choice you have. I'd like to mention a few of the many
16 desirable environmental benefits of natural turf that are in stark contrast to the artificial
17 turf. Natural turf grass surfaces reduce temperature extremes by absorbing the sun's heat
18 during day and releasing it slowly in the evening. This helps in the urban heat reduction.
19 Turf grass releases significant amounts of oxygen into the air. Rainwater entrapment,
20 retention, ground recharge -- another important subject in Montgomery County, and
21 natural turf grass is regenerative. In closing, I would say that the schools in this county
22 represent a significant part of the turf industry. Support your local farmers and carefully
23 study the benefits of Maryland certified natural turf on our schools. And thank you for your
24 time.

25
26 COUNCIL PRESIDENT ANDREWS:

27 Thank you for your testimony. Our next speaker will be Ann Gradowski.

28
29 ANN GRADOWSKI:

30 Good afternoon, President Andrews and members of the Council. I am Ann Gradowski, a
31 parent of five -- three who are alum and a current sophomore at Walter Johnson High
32 School. I am also the current all-school Booster Club President of WJ. I thank you for your
33 time and attention, especially with regard to this agenda item that includes the proposal to
34 install a turf field in our stadium as part of our modernization. I concur with Mr. Murphy's
35 comments regarding our community support and would like to add that the majority of the
36 Booster Club also extends their support of this option. Since the onset of our
37 modernization in 1997, WJ has lost considerable amounts of field space to accommodate
38 our expanding facilities. This, in turn, has created a necessity -- excuse me, a necessity
39 for four of our fall programs to relocate to practice fields in other county facilities.
40 Following the completion of the most recent modernization, additional field space will be
41 lost, which will likely require as many as seven of our eight field-dependent fall sports

June 9, 2009



1 teams being off campus for practice. Many of our athletes are new drivers and are
2 consequently often not only driving themselves, but driving other teens in an effort to get
3 to these off-site practices. This is a safety concern for us all. Additionally, the current
4 configuration of the remaining green space and field placement for our baseball and field
5 hockey teams show that the two playing fields will overlap considerably, requiring our
6 athletes to play on uneven surfaces, which, even with the best maintenance and seasonal
7 repair, would leave them with less than optimal playing conditions for games. The
8 increased maintenance of this space in addition to a natural grass maintenance of a
9 stadium field could be considered an additional financial concern. The addition of artificial
10 turf allows more of our athletic teams the opportunity to remain on campus for their
11 practices, while also allowing our athletes a prime game field on which to compete. The
12 longevity of these turf fields allow our teams to practice and play without compromising
13 the other natural grass areas on our very limited open space campus. For our larger
14 community, with the increased interest in year-round athletics, this field offers the
15 opportunity for others to play on a field that doesn't require them to travel upcounty for an
16 afternoon practice, facing our beloved Beltway and 270 rush-hour traffic. Given the timing
17 of our modernizations, which is soon to conclude, WJ is ready to except this option, and
18 we certainly hope you will give it your full consideration now. Many thanks for your time
19 and attention.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK. Thank you. Our final speaker on this public hearing will be John McShane,
23 representing FieldTurf.

24
25 JOHN McSHANE:

26 Thank you very much, President Andrews and members of the County Council. I am John
27 McShane. I'm a Bethesda-based manufacturer's representative for FieldTurf. We are the
28 world's largest maker of artificial turf. You may be familiar with some of our installations at
29 Richard Montgomery High School, Saint Andrews Episcopal, Holton-Arms, Georgetown
30 Prep, Mater Dei, to name a few of our local installations. We are and have installed over
31 3,000 of these fields. 21 of the 32 NFL teams are currently playing or practicing on our
32 fields. 42 Division 1A fields -- including the likes of Ohio State, Michigan, Rutgers -- are
33 playing on our fields, as well as for every high profile, more than 50 high schools across
34 the nation. Much of the testimony and the data that you have heard today is on old issues
35 that have actually since been substantiated in over 100 independent studies that I have
36 provided as part of my full testimony in writing to the County to review in binders, similar in
37 size to this. The actual -- let me start with the lead issue. Many of the -- much of the
38 controversy was based on the old Astroturf-type style turf, and even some of the
39 testimonies today were revolved around nylon fiber. This fiber is completely lead free. It's
40 100% polyethylene, and it does not have any of the heavy metals associated with it. That
41 study -- actually, after it was tested, they removed the field, and they actually did replace it



June 9, 2009

1 with FieldTurf, as you heard earlier, with the same field requested at Walter Johnson. The
2 -- some of the studies were from the U.S. Consumer Product Safety, and some of the
3 highlights that they stated were that synthetic turf surfaces are no more likely to harbor
4 infectious agents than other surfaces in those same environments. Investigations have not
5 identified playing fields, either natural or synthetic, as likely to increase the risk of
6 transmitting infections. The New York Department of Health just released a fact sheet
7 over a two-year study into the crumb rubber that confirms artificial turf in-filled crumb
8 rubber is indeed safe and validates the hundreds of currently available studies on this --
9 on this issue. And in closing, this is a transitional area. I'm actually an agronomist by
10 trade. I've been in synthetics for seven years. Nothing likes to survive in this transitional
11 area. You add on the environment, soil, the natural soils here, they require tons of
12 nitrogen fertilizer, pesticides. We save eight billion pounds of pesticides going into our
13 aquifers per year and save one million gallons of water used on our fields per year. So
14 we're actually truer, greener -- we received up to 10 LEED points -- than natural turf
15 actually is. So I would like you to please look at all the information and just understand
16 that we are actually more environmentally conscious, safer for our athletes, than natural
17 turf. Thank you.

18
19 COUNCIL PRESIDENT ANDREWS:
20 Thank you. Councilmember Floreen.

21
22 COUNCILMEMBER FLOREEN:
23 Thank you. Mr. McShane, that was very interesting. We had quite the leadup to get to
24 that, and so it was helpful to understand that. And that -- what you're describing is the kind
25 of turf you're propose -- that's being proposed.

26
27 JOHN McSHANE:
28 Yes, ma'am.

29
30 COUNCILMEMBER FLOREEN:
31 Can you talk -- address the heat issue?

32
33 JOHN McSHANE:
34 Yes, ma'am. It's very easy to go out and buy one of these thermal guns and on a 90-
35 degree day, go and stand next to an artificial field and gun it, as was said earlier, at 1:30,
36 and gun the natural, and maybe the natural says 80 degrees or 75. Well, as was stated
37 earlier, every foot that you come up, you lose about 20 degrees, so maybe on the artificial,
38 you go up 20, and now you're at 110. You go up another foot, and now you are at 90, and
39 maybe you go up another half a foot, and now you're at the same of the natural --

40
41 COUNCILMEMBER FLOREEN:



June 9, 2009

1 I'm less concerned about the planet at this point than the kids on the field. How do we
2 address that concern of heat burn and so forth?

3
4 JOHN McSHANE:

5 What I'm getting to is, we have fields installed all over the world in much hotter climates
6 than this. There has never been one heat stress-related incident or injury that has
7 happened to a child of any age on any of our fields that wouldn't have happened exactly
8 on a natural field as well. And there's independent studies that actually back all of this
9 information up.

10
11 COUNCILMEMBER FLOREEN:

12 Do you -- is there -- are there recommendations for, I don't know, hosing it down or
13 something under certain conditions, or does it -- do you have any recommendations for
14 that?

15
16 JOHN McSHANE:

17 Anytime you add cooler water onto something, it's going to drop the surface temperature
18 with evaporation. However, I like the whole conservation effort of our product. And yes, is
19 it going to feel a little hotter in some situations? I don't believe in actually hosing it down
20 with water. You create a more humid environment. You waste water, It's not needed. If it
21 is so hot out that athletes shouldn't be training, they should be on athletic or natural.
22 There's no differentiation.

23
24 COUNCILMEMBER FLOREEN:

25 OK. Thank you very much.

26
27 JOHN McSHANE:

28 Yes, ma'am.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you, Councilmember Floreen. Councilmember Ervin.

32
33 COUNCILMEMBER ERVIN:

34 Thank you very much. I wanted to ask Mr. Lechlitter, who was gracious enough to send a
35 letter that I received in my office, I think it was Friday or Monday. I'm losing track of days.
36 But I don't believe that MCPS is going to turn over all its fields to artificial turf anytime
37 soon, but since you are in the business of natural turf, you did indicate in the letter that we
38 received that there was some sort of a sand -- some way that you can utilize sand to help
39 in drainage on fields. And so I'm curious if you could just speak to that for a few minutes,
40 because we have some MCPS staff here, and if we're going to improve on the natural turf
41 environments that we will have for many, many years to come, what can you recommend?

June 9, 2009



1
2 DOUG LECHLITER:

3 Thank you. There are many alternatives out there. One of them that comes to mind is a
4 sand-based field. You can do a sand-based field. There's even variations of that -- a sand-
5 based with netting, and you can go top of the line, sand-based with netting, which feeds
6 from underground water to help with the water issue. Like I said, each site can be
7 different. Each site has different amounts of usage. But if you went with a more top-of-the-
8 line natural turf field, you would be comparing a little more -- getting closer to compare
9 with the artificial turf. I mean, so I feel kind of like '67 Volkswagen sitting next to the Rolls-
10 Royce when I think about the fields in Montgomery County. Yes, we have a lot of them
11 that are dirt right now. They are overplayed. They were underbuilt. And you can go from
12 one extreme to the other, and it just appears to me that that's what we're doing in one
13 leap. There are things in the middle that may work for a lot of these fields, and that's my
14 point. There are alternatives.

15
16 COUNCILMEMBER ERVIN:

17 Well, we appreciate your testimony. We might -- we might get back to you at some point
18 to have a longer conversation about that with Joe Lavorgna and his staff, about prolonging
19 the life of some of our natural turf fields, and a lot of them are in really, really bad shape,
20 as you know. So thank you very much for your testimony.

21
22 DOUG LECHLITER:

23 Thank you.

24
25 COUNCIL PRESIDENT ANDREWS:

26 Thank you. Councilmember Ervin. Thank you, MR. Lechlitter. Thank you all for testifying. I
27 think this was a very useful public hearing -- brought out a lot of different perspectives and
28 information that is important for the Council to hear and consider. And Mr. McShane, you
29 want to make a final comment?

30
31 JOHN McSHANE:

32 I want to make a final point to that -- to the discussion of the natural. I just want to say that
33 I am an agronomist. I have plant and soil science degrees, and actually, in this transitional
34 area, nothing really likes to survive. You have your Bermudas and your bent and your
35 zoysias down south, your fescues and your blues up north. And the Baltimore Ravens,
36 with all the money, all the fertilizers, all the pesticides, the root-injection systems, could
37 not keep a healthy, safe natural grass field. And when you look at prime real estate, the
38 amount of athletes that we have that need to play on these fields, the answer isn't to try to
39 put some sort of specialized turf in there that needs more fertilizer, more water. That's
40 actually going to harm the environment. There are alternatives, and the alternatives are
41 actually synthetic. With our fields, we capture 100% of the water and cleanse it and then



June 9, 2009

1 put it back into the actual aquifer. All of the water now that is hitting the majority of these
2 fields is completely hitting, running of the fields, and ripping into our streams and sewers
3 with who knows the amount of nitrogen, pesticides, fertilizers. If you want to suggest some
4 testing, I think maybe some streams might be tested for nitrogen and some other harmful
5 fertilizers in some of these adjacent newer Bermuda grass fields that actually can cost
6 upwards to \$60,000 to \$100,000 to maintain, as well as the addition of a \$30,000 piece of
7 equipment to maintain. So when you looked at all the higher uses of water, fertilizers, and
8 pesticides to maybe try to keep something natural and safe, you're actually conversely
9 having way more negative effect on the environment.

10
11 COUNCIL PRESIDENT ANDREWS:
12 Thank you all.

13
14 JOHN McSHANE:
15 Thank you.

16
17 COUNCIL PRESIDENT ANDREWS:
18 OK. [PAUSE] We're now going to move on to agenda item number 8, which is a
19 supplemental appropriation to the County government's FY09 capital budget for the
20 Department of Transportation in the amount of \$685,000 for the White Oak Transit Center
21 after the Council --

22
23 COUNCILMEMBER FLOREEN:
24 I think they withdrew this.

25
26 COUNCIL PRESIDENT ANDREWS:
27 Let's see. "OMB requested that this supplemental appropriation be withdrawn." That's
28 what it says, so there we go. Thank you for noticing. We will come back to that perhaps
29 another time. Agenda item number 9. Maybe we won't.

30
31 COUNCILMEMBER FLOREEN:
32 Whatever.

33
34 COUNCIL PRESIDENT ANDREWS:
35 We'll see. Agenda item number 9. This is a public hearing on Expedited Bill 25-09,
36 Contracts and Procurement - Minority Owned Businesses - amendments that would
37 extend the deadline. The County Executive must submit to the Council a report that
38 evaluates the minority owned business purchasing program and extend the sunset date
39 for the County's minority owned business purchasing program. Persons wishing to submit
40 additional material or the Council's consideration should do so before the close of
41 business Thursday, June 18, 2009. A Management and Fiscal Policy Committee



June 9, 2009

1 worksession is tentatively scheduled for Monday, June 22, 2009, at 2:00. There are no
2 speakers for this hearing, so the public hearing is closed. Our next item is the agenda item
3 10, which is the last item that we have speakers on. This is a public hearing on the
4 proposed Twinbrook Sector Plan Sectional Map Amendment G-880, which would rezone
5 approximately 68 acres of the total 150 in the Sector Plan area, with 82 acres being
6 reconfirmed. Persons wishing to submit additional material for the Council's consideration
7 should do so before the close of business Thursday, June 18, 2009. Action is tentatively
8 scheduled for June 23, 2009. We have three speakers who are signed up for this -- Gary
9 Stith, representing the County Executive, Rod Lawrence, representing JBG Companies,
10 and Anne Martin, representing Fishers Lane, LLC. And I only see Miss Martin, so we will
11 go right to her. And you have three minutes. You've testified here before now, so you're
12 familiar with all of it, I think, and just press the button and please proceed.

13
14 ANNE MARTIN:

15 Thank you, Council President Andrews and members of the Council, to provide my
16 testimony here today. For the record, and for Councilmember Navarro, my name is Ann
17 Martin. I'm from the law firm of Linowes and Blocher. I'm here today on behalf of the
18 Fishers Lane, LLC, and its affiliate entities who are the owners of the 22-acre area in the
19 Twinbrook Sector Plan, including the Parklawn Building and the associated surface
20 parking lots to the north and south of the building. We support the Twinbrook Sectional
21 Map Amendment and the transit mixed-use zone -- the TMX-2 zoning classification
22 proposed for the Parklawn properties in the SMA. We would also like to take this
23 opportunity to remind the Council of the uncertainty of the future federal government
24 presence on the Parklawn properties, which creates a unique circumstance that requires
25 optimal flexibility in the new TMX-2 zone and minimal required exactions for viable
26 redevelopment, including potential requirements to purchase BLTs -- the building lot
27 terminations. As you know, the situation with the Parklawn properties is unique. based on
28 the existing approximate 1.3 million square foot building and the uncertainty with respect
29 to the GSE -- GSA lease. The potential renovation of the Parklawn building to LEEDs
30 standards with a renewal the GSA lease and resulting reuse of this existing building so
31 close to transit would serve as a model for sustainable practices. Further, the retention of
32 thousands of employees in the Parklawn Building would maintain the technology and
33 employment area vision for this area of the Twinbrook Sector Plan. These significant
34 building enhancements, which are required to remain competitive to retain the GSA as a
35 primary tenant of this entire area, are economically feasible only through the subsidy
36 allowed with the development opportunities on the two surface parking lots north and
37 south of the Parklawn Building in the TMX-2 zone. That's, again, requiring optimal
38 flexibility and minimal exactions. While the obvious preferred scenario is the GSA lease
39 renewal for the Parklawn Building, the application of the TMX-2 zone needs to be
40 receptive to all potential scenarios for the Parklawn properties, including GSA leaving the
41 site altogether and the need for significant improvements and rehabilitation of the



June 9, 2009

1 Parklawn Building to be back-filled with a viable mix of uses not anchored by a single
2 federal government tenant. Again, we support the TMX-2 zone and the flexibility the
3 Council provided in the Twinbrook Sector Plan for retention of the GSA and retention of
4 the 60% of the employees in the building that reside in the county and the opportunities to
5 redevelop the surface lots of the Parklawn properties with a transit-oriented mix of uses.
6 However, it remains critical to remind the Council of the unique circumstance of the
7 Parklawn properties that require optimal flexibility and minimal required exactions for
8 viable redevelopment. The actual impact of potential BLT requirement on the portion of
9 the Parklawn properties remains unknown, but we respectfully request for the continuing
10 flexibility and the attention of the Council regarding this critical economic development
11 issue with respect to the largest office building in the county. Thank you consideration of
12 our comments and your continued support of the shared vision for the success of the
13 Twinbrook area. Thank you.

14
15 COUNCIL PRESIDENT ANDREWS:

16 Thank you, Miss Martin. There are no comments or questions on your testimony, so that
17 concludes this public hearing. Thank you very much.

18
19 ANNE MARTIN:

20 Thank you.

21
22 COUNCIL VICE PRESIDENT BERLINER:

23 We will now go to 16, item 16. We have two speakers, I believe. Good afternoon, ladies
24 and gentlemen. This is a public hearing on supplemental appropriation to County
25 government's FY09 operating budget, Department of Economic Development, in the
26 amount of \$1,301,992 for the United States Department of Labor for workforce
27 development through the Maryland Department of Labor, Licensing, and Regulation Grant
28 Award. Action is scheduled immediately following this hearing. So I believe we have two
29 witnesses. Miss Chau, why don't you begin?

30
31 NGUYEN MINH CHAU:

32 Thank you. Can you hear me now? Good afternoon, Council President Andrews and
33 Councilmembers. I am Nguyen Minh Chau from Garrett Park. I have resided in
34 Montgomery County since 1965. I retired in 1999 as COO and Executive VP of a DC firm
35 specializing in nationwide labor-intensive surveys of public schools and refugee
36 resettlement. The firm employed a wide spectrum of multicultural and Multilanguage
37 personnel, semi-skilled and professional. First, I wish to express my deep appreciation for
38 the County's Department of Economic Development for its positive and proactive posture
39 toward the employment training of dislocated workers who also need improvement of their
40 English language skills. They -- DED made the statement that yes, we can reimburse for
41 ESOL, but it has to be related to and leading to employment. The federal government is

June 9, 2009



1 expecting the American Recovery and Reinvestment Act to create and save
2 approximately 3.7 million jobs. Especially in this severe economic downturn, older workers
3 will have difficulty competing for scarce job vis-à-vis younger and more technically
4 informed workers. My advocacy colleagues in the business sector tell me that an
5 employer tends to favor training a 35- to 40-year-old over a 50 or older candidate because
6 of the obvious expectation that the younger candidate will provide upward of 25 years of
7 future service. However, employers that I have recently spoken to have expressed
8 concern for dislocated workers and have also expressed a willingness to consider the
9 older worker's experience and reliability as a fair exchange for the younger worker's
10 expected longer length of service and physical strength. When one considers that some
11 dislocated workers do not have proficiency in English, the argument of "what makes the
12 most business sense" is eliminated because of DED's willingness to reimburse for
13 employment-related ESOL. To this end, my business contacts will welcome DED's
14 explicitly stated incentives, either cash or a mutually agreeable tax incentive arrangement.
15 Along with my thanks to DED for its proactiveness, I wish also to recommend that DED
16 outreach to those dislocated older workers who are culturally and linguistically isolated
17 and enable them to seek access to DED's comprehensive ARRA training program. DED
18 should more broadly advertise the ARRA program via the County's community-based
19 partners, County agencies, and their contractors. I spent most of yesterday visiting several
20 Websites and telephoning some ARRA service providers. I found that a number of
21 established, well-run delivery models should be repositioned to accommodate the needs
22 of dislocated job workers at the lower level. Thank you.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Thank you, and thank you for waiting so long to testify.

26
27 NGUYEN MINH CHAU:

28 It's OK.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Our final speaker this afternoon -- we have several public hearings without speakers -- is
32 Miss Ortuzar.

33
34 ALYCE ORTUZAR:

35 My name is Alyce Ortuzar, and I had the unfortunate experience of being unemployed at
36 some point, and I was collecting unemployment and was contacted to go down to
37 MontgomeryWorks for some classes. In the whole world of mindless bureaucrats, barriers
38 to people already underemployed and unemployed, and an environment of humiliation
39 and disparagement is what I encountered, particularly at the Gaithersburg Center. And I
40 extensively wrote and documented all of the complaints and gave them to members of the
41 County Council, on the PHED Committee in particular. And I was told at the time -- this

June 9, 2009



1 was about a year and a half ago -- from Councilmember Floreen's office and
2 Councilmember Praisner's office that there was nothing they could do because it was a
3 federal agency -- or under the Executive branch of Montgomery County government. So
4 now I see that you are in a position to approve funding, and it's disconcerting to me that
5 no one has made an effort to verify whether anything has changed before you give them
6 more money, and I'm here to tell you it hasn't changed. And there are barriers set up there
7 that aren't in similar MontgomeryWorks or similar workforce development offices in other
8 counties in the state. I have verified that. In order to access a computer class, you're not
9 able to sign up either on the telephone or online. You cannot sign up ahead of time, so
10 people already experiencing economic hardship must make a special trip to sign up and
11 then come back for the class. There's no continuity in the classes themselves. Often, the
12 subject matter is not relevant to the needs of these individuals. There's no tech support
13 after you've taken a class. And other barriers include, at the Gaithersburg Center
14 especially, where there's one phone for people to use to contact prospective employers,
15 it's kept in the conference center, and Miss Baker makes sure that everyone has to
16 individually ask for permission to use the phone, and what I observed was individuals
17 talking to prospective employers at a conference table while other people were engaged
18 in loud, animated conversations in the same area. Wheaton, at least, has private booths
19 for the people to access, and there's no limit. Counselors at MontgomeryWorks don't have
20 any authority to sign up the workers for classes that they think are appropriate for them.
21 And one example of irrelevant courses is a grief class for your job, but there's nothing that
22 takes these -- these individuals through resume writing, cover letter writing, going through
23 actual want ads, breaking them down, and determining how you can sell yourself for that
24 job. There's a lot to be said that needs to be corrected before you give this agency more
25 money. Thank you.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Thank you for your testimony, and those -- your testimony concerns me, that there needs
29 to be some improvement made at that center.

30
31 ALYCE ORTUZAR:

32 I just want to add that one of the statements an administrator made to me, ????? Mr.
33 Profiter says if we don't impose hardship on these people, they won't appreciate the
34 services. That's the mindset. And someone from your office told me that four years ago at
35 another hearing looking at complaints against them, one administrator was asked -- it
36 might have been by you -- why they didn't have better outreach, and your aide told me
37 that the response was because they were afraid too many people would show up. I mean,
38 there is really a problem with the administrators who run this agency. Thank you.

39
40 COUNCIL PRESIDENT ANDREWS:

41 Thank you for your testimony. Councilmember Ervin.



June 9, 2009

1
2 COUNCILMEMBER ERVIN:

3 Before you go, Alyce, thank you very much for coming to us with that, because I know
4 that's not easy to do. If you've experienced the hardship of being unemployed and then
5 having to go get assistance and not being served, I think it's really important for us to
6 make note of that, especially as we begin to have conversations about next year's budget.
7 I will definitely make a note of this, and I guess this goes through the PHED Committee,
8 but I am very concerned, as Council President Andrews just indicated. So I appreciate you
9 coming forward and sharing your testimony.

10
11 ALYCE ORTUZAR:

12 I would like to just provide one more quick example. When you're relying on temporary
13 jobs, you can't really plan ahead. So at 6:00 on a Wednesday night, I was told all the work
14 that they had for me I had completed, and the next morning I found myself again without a
15 job. I showed up for a class -- I desperately needed the computer skills -- and the woman,
16 Miss Baker at Gaithersburg, would not let me in the class, shut the door in my face with
17 empty seats in that class, and I was not the only one who had arrived to try to take a
18 class. Now, there was no way I could have signed up in advance. So those -- that's the
19 way people are being treated by this agency. I've seen people in need of assistance at the
20 computers, and at one point, I would call attention to the person behind the desk that
21 someone needed help, and I sat there, and that person never received that help. Thank
22 you.

23
24 COUNCIL PRESIDENT ANDREWS:

25 Thank you, Councilmember Ervin, and thank you both. That concludes the public hearing.
26 We are scheduled to take action on this. This is a grant award from the U.S. Department
27 of Labor and through the Maryland Department of Labor. I'm going to ask -- and I just
28 spoke with the chair of the Planning, Housing, and Economic Development Committee --
29 to look at some of the issues that have been raised in the testimony to see if there can be
30 some improvements made to address these concerns. I think we should go ahead with
31 the appropriation to ensure that we have the money available for workforce development,
32 but I do want to make note of the concerns, and I know that Councilmember Knapp will
33 look into them in the committee. So the action that's scheduled now is to approve \$1.3
34 million -- 1,301,992 -- in a grant award for workforce development. All those in favor of the
35 supplemental appropriation, please raise your hand. We need a motion. All right.

36
37 COUNCILMEMBER FLOREEN:

38 So moved.

39
40 COUNCILMEMBER KNAPP:

41 Second.



June 9, 2009

1
2 COUNCIL PRESIDENT ANDREWS:

3 So moved. Moved by Councilmember Floreen. Seconded by Councilmember Knapp. Very
4 good. Thank you for the correction. All those in favor of the motion, please raise your
5 hand. That is Councilmember Navarro, Councilmember Elrich, Councilmember Floreen,
6 myself, Council Vice President Berliner, Councilmember Knapp, Councilmember Ervin,
7 and Councilmember Leventhal. It is approved, 8-0. And we now have several other public
8 hearings, but we do not have any speakers, so we'll be able to proceed pretty quickly
9 through the remainder of the afternoon's agenda. And next is public hearing -- we do have
10 two action items, though. And you know what? We will do those first. OK. Public hearing
11 item number 14, agenda item 14, is a public hearing on a supplemental appropriation to
12 the County government's FY09 operating budget for the Department of Transportation,
13 Division of Transit Services. In the amount of \$382,000 for fiscal year -- this doesn't look
14 right -- 2007; must be 2009 -- Transit Security Grant Program. Action is scheduled
15 immediately following this hearing. There are no speakers for this hearing. Dr. Orlin is at
16 the table, though. Do you want to comment on this?

17
18 GLENN ORLIN:

19 Just it is actually correct. It's the Federal Fiscal Year '07 grant out of that program. So
20 it's...

21
22 COUNCIL PRESIDENT ANDREWS:

23 OK.

24
25 GLENN ORLIN:

26 I had the same question.

27
28 COUNCIL PRESIDENT ANDREWS:

29 See? OK. Motion to approve the supplemental appropriation of \$382,000 from
30 Councilmember Floreen. Seconded by Councilmember Leventhal. All those in favor,
31 please raise your hand. That's Councilmember Navarro, Councilmember Elrich,
32 Councilmember Floreen, myself, Council Vice President Berliner, Councilmember Ervin,
33 and Councilmember Leventhal. It's approved, 7-0. Our final item for action this afternoon
34 is this -- a public hearing on a supplemental appropriation to the County government's
35 FY09 operating budget for the Montgomery County Board of Elections in the amount of
36 \$1.3 million for special election costs. Action is scheduled immediately following this
37 hearing.

38
39 COUNCILMEMBER FLOREEN:

40 Move approval.

June 9, 2009



1 COUNCILMEMBER NAVARRO:

2 Second.

4 COUNCIL PRESIDENT ANDREWS:

5 Move approval. Moved by Councilmember Floreen. Seconded by Councilmember
6 Navarro. OK. A hearty second by Councilmember Navarro. All those in favor of the
7 supplemental appropriation for 1.3 million for special election costs, please raise your
8 hand. That is Councilmember Navarro, Councilmember Elrich, Councilmember Floreen,
9 myself, Councilmember -- Council Vice President Berliner, Councilmember Ervin, and
10 Councilmember Leventhal. That is approved, 7-0. Our two remaining public hearings are
11 these, and it will take about a minute each. This is a public hearing on a supplemental
12 appropriation to the Montgomery County public schools' FY09 operating budget in the
13 amount of \$2,910,000 and a categorical transfer of \$600,000 for the provision for future
14 supported projects. Person wishing to submit additional material for the Council's
15 consideration should do so before the close of business Thursday, June 11, 2009. Action
16 is tentatively scheduled for June 16, 2009. There are no speakers, so the hearing is
17 closed. And our final public hearing for the afternoon is a public hearing on a
18 supplemental appropriation to the County government's FY09 operating budget for the
19 Department of Transportation in the amount of \$6,645,090 and the Department of General
20 Services in the amount of \$2,611,450 for snow removal/wind and rain storm cleanup.
21 Persons wishing to submit additional material for the Council's consideration should do so
22 before the close of business Thursday, June 11, 2009. A Transportation Infrastructure
23 Energy and Environment Committee worksession is tentatively scheduled for Monday,
24 June 15, 2009, at 9:30 AM. There are no speakers for this public hearing, so it is closed, it
25 is complete, and we are now adjourned for recess for the afternoon.

27 GLENN ORLIN:

28 Mr. Andrews, was there any action on item 16 of the -- I'm covering that for Miss Ferber. I
29 didn't remember you doing that.

31 COUNCIL PRESIDENT ANDREWS:

32 Yes, we did. We took action on that.

34 GLENN ORLIN:

35 Oh, I'm sorry. Thank you.

37 COUNCIL PRESIDENT ANDREWS:

38 Yes. That was 8-0. All right. So we are in recess for the afternoon. We will come back at
39 7:30 for more public hearings. Thank you all.